SUPREME COURT OF THE UNITED STATES.

No. ~~252~~ 744

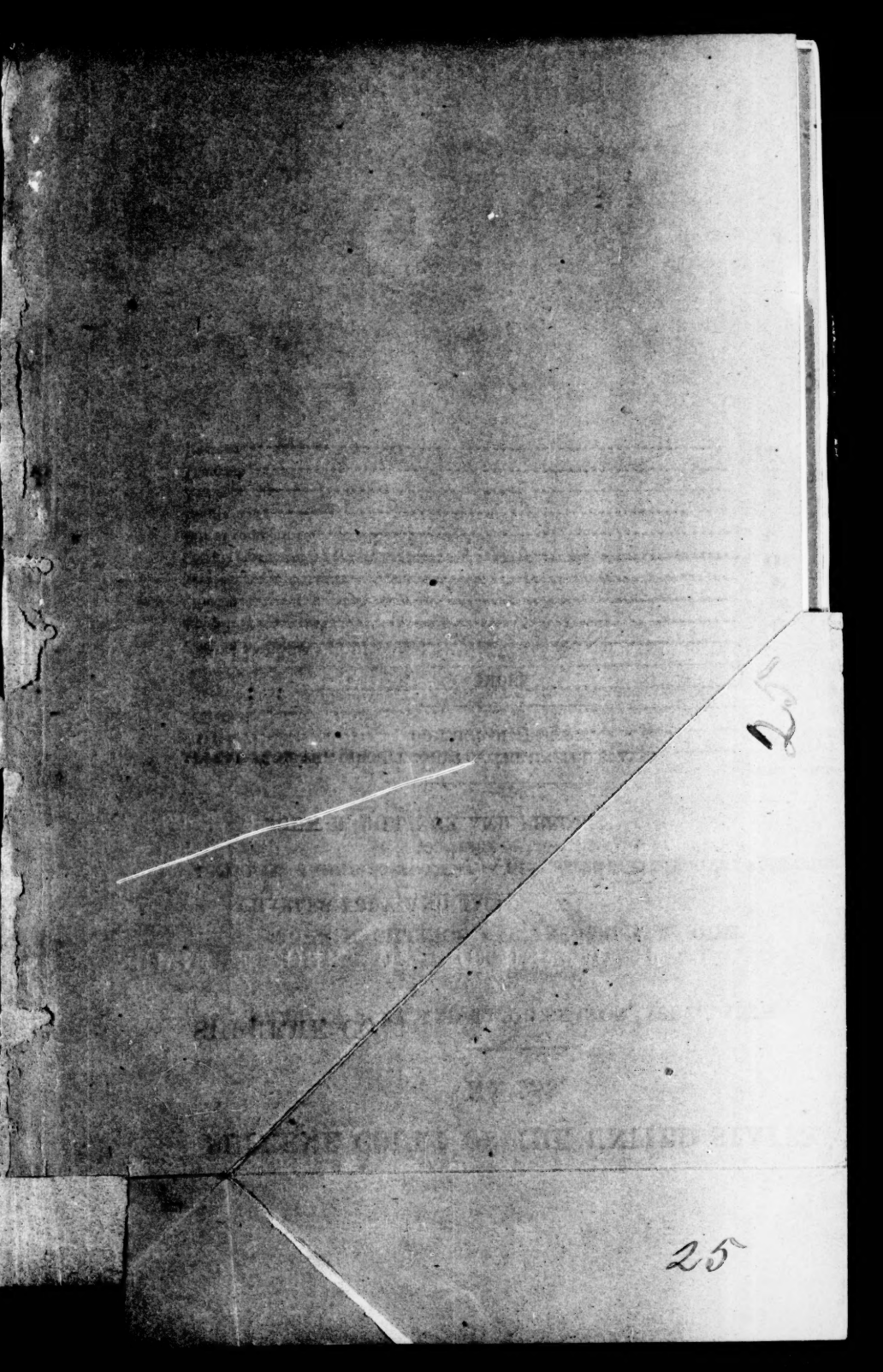
CHARLES EDDY AND JACOB SHAVOR, APPELLANTS,

vs.

JOHN N. BILLINGS AND FREDERICK R. STOW.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF NEW YORK.

GOVERNMENT PRINTING OFFICE.



SUPREME COURT OF THE UNITED STATES

No. 253.

CHARLES EDDY AND JACOB SHAVOR, APPELLANTS,

vs.

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1 Supreme Court of the United States.

CHARLES EDDY AND JACOB SHAVOR, appellants,
ag'st
JOHN N. BILLINGS AND FREDERICK R. STOW, respondents. } Appeal.

To the honorable the Supreme Court of the United States:

The appeal of the above-named Charles Eddy and Jacob Shavor, appellants, respectfully shows that on the 30th day of July, 1860, said appellants filed their bill of complaint in the circuit court of the United States for the northern district of New York, in equity, in an action arising under the laws of the United States, granting and confirming to inventors exclusive rights to their inventions, by which bill of complaint the said Charles Eddy and Jacob Shavor, plaintiffs therein, complained of said John N. Billings and Frederick R. Stow, defendants therein, for an alleged infringement and violation by them of certain unexpired letters patent of the United States,
2 granted to Henry Stanley, and by him assigned to said Charles Eddy and Jacob Shavor, and prayed for an account and payment by said Billings & Stow to said Eddy & Shavor of damages for such infringement and violation of said letters patent, and for an injunction against any further violation by said Billings & Stow of certain rights in said bill of complaint alleged to have been granted by said letters patent, and assigned to said Eddy & Shavor; whereupon the said Billings & Stow filed their answer to said bill of complaint. And your petitioners further show that on the 15th day of January, 1861, they filed their supplemental bill in said cause, wherein they stated, among other things, that the said supplemental bill was founded upon the reissue of the said patent since the granting of the injunction in said suit, which said bill was by order of the court filed as a part of the original pleadings in said suit. Infringement was charged in said bill and a decree of accounting as well as a preliminary injunction
3 was asked for, and the said defendants duly filed their answer to said supplemental bill, on which said bill the original preliminary injunction was continued, and an additional preliminary injunction was granted as prayed for in said supplemental bill. And your petitioners further show that said parties to said action took their proofs therein, and that said action came on for hearing upon pleadings and proofs, at a term of said circuit court held at the City Hall, in the city of Albany, in said northern district of New York, before Hon. Samuel Nelson, justice, on the 18th day of October, 1862; that said justice did decide said action on the following grounds, and in the following words, to wit: The surrender and reissue of the patent since the commencement of the suit is fatal. This point has been several times decided. The supplementary bills do not help the case. Decree that bill be dismissed with costs;" and that pursuant to such decision, the said circuit court, on the 11th day of July, 1864, made and rendered a judgment and
4 decree in said action to the effect and substantially in the words and figures following, to wit:

At a special term of the circuit court of the United States of America for the northern district of New York, in the second circuit, held at the clerk's office, in Utica, on Wednesday, the 10th day of August, in the year of our Lord one thousand eight hundred and sixty-four.

Present: The Honorable Samuel Nelson, judge.

CHARLES EDDY AND JACOB SHAVOR
vs.
JOHN N. BILLINGS AND FREDERICK K. STOW. }

This cause having been brought to trial on the pleadings and proofs, and the decision of the judge having been filed, and an order having been duly

entered herein that the bill of complaint in cause be dismissed with costs, now, on motion of P. Starr, sol. for def'ts, it is now here ordered, adjudged, and decreed that the bill of complaint be, and the same is hereby, dismissed out of this court; and it is further ordered, adjudged, and decreed that the def'ts recover of the complainants the sum eighty-two dollars and fifteen cents for their costs and disbursements in this cause, and that said def'ts have execution therefor.

Wherefore, these appellants, the said Charles Eddy and Jacob Shavor, feeling themselves aggrieved by the said judgment and decree of the said circuit court, hereby appeal from the same and every part thereof to the Supreme Court of the United States, and respectfully pray that said judgment and decree with the pleadings, depositions, evidence, and proceedings in said action, may be sent to the Supreme Court of the United States without delay; that the said Supreme Court will proceed to hear said action and appeal; that said judgment and decree of said circuit court and each and every part thereof may be reversed, and a decree made in said action, that said bill of complaint so dismissed be restored to the calender of the said circuit court in said northern dist. of New York, and that a decree of accounting be entered therein according to the prayer of the said bill, and that a permanent and perpetual injunction be issued as prayer for, and judgment be entered against defendants upon the coming in of the master's report for damages or profits made, and for costs; and that such other and further decree may be made by said Supreme Court as shall be agreeable to equity and good conscience, and that these appellants may be restored to all things which they have lost by said judgment and decree of the said circuit court, dismissing their said bill of complaint as aforesaid and these appellants as in duty bound will ever pray.

Dated Troy, N. Y., Sept. 30th, 1864.

MARCUS P. NORTON,
Sol. for Complainants, Troy, N. Y.

Foregoing appeal allowed this 3d day of October, 1864.

N. K. HALL,
District Judge of the U. S., Northern District of New York.

Citation.

By the Honorable Nathan K. Hall, one of the judges of the circuit court of the United States for the northern district of New York, in the second circuit, to John N. Billings and Frederick R. Stow:

Whereas Charles Eddy and Jacob Shavor have lately appealed to the Supreme Court of the United States from the judgment and decree lately rendered in the circuit court of the United States for the northern district of New York, in the second circuit, made in favor of you, the said John N. Billings and Frederick R. Stow, against the said Charles Eddy and Jacob Shavor, by dismissing their bill of complaint, with costs, and have filed the security required by law:

You are therefore hereby cited to appear before the said Supreme Court, at the city of Washington, on the first Monday of December next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand, at the city of Buffalo, in the northern district of New York, in the second circuit, the 6th day of October, in the year of our Lord one thousand eight hundred and sixty-four, and of the independence of the United States the eighty-ninth.

N. K. HALL,
U. S. District Judge of the Northern District of New York.

10 Due and personal service of the within citation, by copy thereof, is hereby admitted this 17 day of Oct., 1864.

P. STARR, *Att'y for Def't, New York.*

Filed Oct. 11, 1864. Refiled Oct. 25, 1864.

11 Supreme Court of the United States.

CHARLES EDDY AND JACOB SHAVER, appellants,
vs.
JOHN N. BILLINGS AND FREDERICK R. STOW, respondents.

To the Supreme Court of the United States:

I, Augustus A. Boyce, clerk of the circuit court of the United States in and for the northern district of New York, in the second circuit, do hereby certify that the following is a transcript of the record of judgment and decree, with the pleadings, depositions, and proceedings in the suit in equity wherein the said Charles Eddy and Jacob Shaver are plaintiffs, and John N. Billings and Frederick R. Stow are defendants, remaining on the files of the said circuit court.

In testimony whereof, I have hereunto subscribed my name and have hereto affixed the seal of the said circuit court, at my office, in the city of Utica, in said district, this 1st day of December, anno Domini one thousand eight hundred and sixty-four.

AUGUSTUS A. BOYCE, *Clerk.*

12 U. S. circuit court, northern dis't of N. Y., in equity.

CHARLES EDDY AND JACOB SHAVOR
against
JOHN N. BILLINGS AND FREDERICK R. STOW.

To the judges of the circuit court of the United States for the northern district of New York:

Charles Eddy and Jacob Shavor, each of the city of Troy, county of Rensselaer, State of New York, and each a citizen of the State of New York, and who are partners in business under the firm-name of Charles Eddy & Co., in the said city of Troy, bring this their bill against John N. Billings and Frederick R. Stow, of the said city of Troy, county and State, and who are partners in business under the firm-name of Billings & Stow, in the city of Troy aforesaid, and who are each a citizen of the State of New York.

And thereupon your orators complain and say that heretofore and prior to the 4th day of January, in the year 1845, one Henry Stanley, who was at that time a citizen of the United States, invented new and useful
13 improvements in coal-stoves, and being improvements in stoves for burning coal, for which invention letters patent of the United States were duly granted and issued unto him, the said Henry Stanley, bearing date the day and year aforesaid. That the said letters patent were granted and issued in the name of the United States of America, and under the seal of the Patent Office, and were duly signed by the Secretary of State, and countersigned by the Commissioner of Patents, and were afterwards duly delivered to the said Henry Stanley. That the said letters patent, after reciting that the said Henry Stanley had invented a new and useful improvement in coal-stoves, which he stated had not been known or used before his invention; had made oath that he was a citizen of the United States, that he did verily believe that he was the original and first inventor or discoverer of the said invention and improvement, and that the same had not, to the best of his knowledge and belief, been known or used prior to his invention

thereof; and that he had paid into the treasury of the United States ($30) thirty dollars, and had presented a petition in writing to the Com-
14 missioner of Patents, wherein and whereby he signified a desire of obtaining an exclusive property in the said invention and improvement, and therein praying that letters patent might be granted and issued to him for that purpose; did grant and issue to him, the said Henry Stanley, his heirs, administrators, or assignees, for the full and only term of fourteen years from and after the fourth day of January, one thousand eight hundred and forty-five, the full and exclusive right, privilege, and liberty of making, constructing, using, and vending to others to be used, the said improvements, which in the said letters patent were styled and denominated a new and useful improvement in coal-stoves, a description whereof is given in the words, figures, and characters of the said Henry Stanley, in the schedule annexed to the said letters patent and making a part of the same, which letters patent were not at any time reissued prior to the expiration of the said term of fourteen years for which the said letters patent were first originally granted and issued.

And your orators further show unto your honor that the said Henry Stanley was the original and first inventor of the said invention
15 and improvement or improvements shown in his model and drawings upon which his said application for letters patent was duly made and entered upon file in the United States Patent Office, and described and set forth in and by the said letters patent. That the same was not known or used by others before the invention or discovery thereof by the said Henry Stanley, and was not at the time of his application for letters patent upon the said invention in public use or on sale with the knowledge and consent or allowance of the inventor, the said Henry Stanley, as the inventor or discoverer thereof. That at the time of making the aforesaid application for letters patent upon the said invention, and before receiving letters patent therefore, and thereupon he, the said Henry Stanley, did make oath according to law that he did verily believe that he himself was the original and first inventor of the said invention and improvements, for which he solicited and desired letters patent, and that he did not know or believe that the same was ever before known or used, and that he was a citizen of the United States. That the said Henry Stanley, as such original and first inventor, did deliver unto the said Commissioner of Patents, at the
16 time of his said application for a patent, a description in writing of and concerning his said invention or improvements, wherein and whereby he set forth the manner and process of making, constructing, and using the same in such full, clear, and exact terms as to enable any person or persons skilled in the art to which it relates or in anywise concerned to make, construct, and use the same. That the said Henry Stanley, as such original and first inventor, did, at the time of making his said application for letters patent for and upon the said invention, clearly show in and by his said model and drawings thereof his said invention, improvement, or improvements; also the combination and sub-combinations of the same. And that at the same time he, the said Henry Stanley, did prepare or cause to be prepared a specification in writing, wherein and whereby he specified and pointed out a certain part, improvement, or combination which was then and there claimed as his invention or discovery as aforesaid, and that the same was accompanied with drawings of his said invention, wherein were represented in characters or writing, showing and representing his said invention, and the combination thereof, "as a whole,"
17 together with sub-combinations of the same, that the said specification or description and drawings were duly signed by the said Henry Stanley as the original and first inventor thereof, and thereupon

were duly attested by two witnesses, and which were duly filed in the said Patent Office in his said application for letters patent upon the said invention within and before the expiration of two years from and after the said invention was completed by the said Henry Stanley as aforesaid, and that the said Henry Stanley did furnish a model of his said invention and improvements, wherein and whereby he did show the combination "as a whole," and the sub-combinations of the same; which said model was duly filed in the said Patent Office, and that the said Henry Stanley did at that time and ever afterwards, in all things, comply with the requirements of each and every of the statutes entitling him to receive the aforesaid letters patent of the United States of America.

And your orators further show unto your honors that the said invention and improvement was during the said term of fourteen years, first and
18 originally granted as aforesaid, one of great value and importance to the public; and that after the granting and issuing of the said letters patent as aforesaid, the said Henry Stanley did put and cause to be put into extensive and public use the said invention or improvement, as the original and first inventor of the same.

And your orators further show unto your honors that prior to the fourth day of January, one thousand eight hundred and fifty-nine, and before the expiration of the said term of fourteen years for which the said letters patent were granted, the said Henry Stanley, desiring an extension of the said letters patent for a term of seven years from and beyond the expiration of the said term of fourteen years for which it was first and originally issued, made an application in writing to the Commissioner of Patents, wherein and whereby he set forth his claims, rights, and grounds therefore and thereof, and paid into the treasury of the United States the sum of (40) forty dollars, the fee required by law in such cases, and duly furnished to the said Commissioner of Patents a statement in writing, under oath, of the ascertained value of his said invention and
19 improvements, and of the receipts and expenditures by him received and made, thereby exhibiting a correct and faithful account of loss and profit in any way or manner accruing to him from and by reason of said invention; and that he, the said Henry Stanley, did in all respects comply with the requirements of each and every of the statutes relating and apertaining to the same, and entitling him, the said Henry Stanley to obtain and receive an extension of the said letters patent for a term of seven years from and after the said fourth day of January, one thousand eight hundred and fifty-nine, and that thereupon proceedings were had and taken in conformity to the facts and the law by and before the Hon. Commissioner of Patents, so that on or before the said fourth day of January, one thousand eight hundred and fifty-nine, the said Commissioner of Patents did, in conformity to law, grant a term of seven years in addition to the said term of fourteen years, did renew or revive and extend the said letters patent for the said term of seven years from, after, and beyond the expiration of the original term of fourteen years; and that the said Commissioner of Patents did thereupon make a certificate in writing of such granted, renewed,
20 or revived, and extended term of seven years, which was attached to or annexed to the said letters patent, and was duly entered of record in the said Patent Office before the expiration of the said term of fourteen years, and which certificate in all respects complied with the requirements of the law in such cases made and provided, and was under the seal of the said Patent Office, a copy of which certificate, under the hand of the Hon. Commissioner of Patents, and under and with the seal of the said Patent Office affixed thereto, your orators pray may be deemed and taken as a part of this their bill of complaint, and to which they ask leave to refer.

And your orators further show unto your honors that after the granting of the said extension as aforesaid, and on or about the fourth day of January, one thousand eight hundred and fifty-nine, the said Henry Stanley, by a certain indenture of assignment or deed, bearing date on the day last aforesaid, did, for the consideration and considerations therein and thereby expressed, assign, sell, set over, and convey to one John Stanley all the right, title, and interest which he, the said Henry Stanley, then had in the
21 said invention as secured, or as might afterwards be secured, to him by the said letters patent, for the new and extended term of seven years from and after the said 4th day of January, 1859, the same to be held and enjoyed by the said John Stanley for his own use and behoof, and for the use and behoof of his legal representatives, to the full end of the said term of seven years for which the said letters patent are extended, which said indenture of assignment or deed was duly recorded in the said Patent Office on or about the 23d day of March, 1859, in Liber D 5, page 243, of Transfers of Patents, in conformity to law, and which said indenture of assignment or deed your orators pray may be deemed and taken as a part of this their bill of complaint, and to which they ask leave to refer.

And your orators further show to your honors that after the granting of the said extension of the said letters patent as aforesaid, and after the said Henry Stanley executed and delivered the aforesaid indenture of assignment to the said John Stanley, and after the same had been duly recorded in the Patent Office as aforesaid, and on or about the 24th day of March,
22 1859, the said John Stanley, by a certain indenture of assignment or deed, bearing date on the day, month, and year last aforesaid, did, for the consideration and considerations therein and thereby expressed, assign, sell, set over, and convey to the said Charles Eddy and Jacob Shavor, partners in business under the firm-name of Charles Eddy & Co., all the right, title, and interest which he, the said John Stanley, then had in, to, and for the said invention and improvements, as secured by the said letters patent for the extended term of seven years from and after the said 4th day of January, 1859; the same to be held and enjoyed, with all the benefits and privileges, as fully as then held and enjoyed by the said John Stanley, by the said Charles Eddy and Jacob Shavor, of the firm-name of Charles Eddy & Co., as aforesaid, for and during the said term of seven years for which the said letters patent are extended, which said indenture of assignment or deed was duly recorded in the said Patent Office on or about the 1st day of May, 1860, in Liber T 5, page 330, of Transfers of Patents, in conformity to law, and which said indenture of assignment or deed your orators pray may be deemed
23 and taken as a part of this their bill of complaint, and to which they ask leave to refer.

And your orators further show to your honors that by virtue of the aforesaid indentures of assignments or deeds they became, and were, on or about the said 24th day of March, 1859, and have ever since been, and still are, the lawful owners of, and vested with, each and every of the exclusive rights and privileges so as aforesaid granted to the said Henry Stanley in and by the said letters patent as extended for a term of seven years from and after the said 4th day of January, 1859, as aforesaid.

And your orators further show to your honors that since the said indentures of assignments or deeds, executed and delivered as aforesaid, and on or about the 17th day of February, 1860, they, the said Charles Eddy and Jacob Shavor, in pursuance of the statute or statutes in such case made and provided, did surrender the said letters patent, so as aforesaid granted and extended, to the said Henry Stanley, and the same were cancelled and new letters patent were ordered to issue, and did issue, to them, the said Charles Eddy and Jacob Shavor, in conformity to law and upon a corrected and

amended specification; and thereupon and thereafter, to wit, on or
24 about the 10th day of April, 1860, at the said Patent Office, upon the application of the said Charles Eddy and Jacob Shavor in due form of law to the Commissioner of Patents, letters patent for and upon the aforesaid new and useful improvements were duly reissued on an amended and corrected specification in the name of the United States of America, in due form of law, under the seal of the Patent Office of the United States, signed by Jacob Thompson, Secretary of the Interior, and countersigned by S. T. Shugert, Acting Commissioner of Patents, bearing date on the 10th day of April, 1860, wherein and whereby was granted to the said Charles Eddy and Jacob Shavor, their heirs, administrators, or assigns, for the term of twenty-one years from and after the said fourth day of January, one thousand eight hundred and forty-five, the full and exclusive right and liberty of making, constructing, using, and vending to others to use or be used, the said improvements, as by the said letters patent will fully appear.

And your orators further show unto your honors that since the said reissue of the said letters patent as last aforesaid, and on or about the
25 27th day of April, 1861, they, the said Charles Eddy and Jacob Shavor, in pursuance of the statute or statutes in such case made and provided, did surrender the said letters patent, so as aforesaid granted and extended, to the said Henry Stanley, and reissued by and to the said Charles Eddy and Jacob Shavor, as aforesaid, and the said reissued letters patent were cancelled, and new letters patent were ordered to issue, and did issue, to them, the said Charles Eddy and Jacob Shavor, in conformity to law, upon a corrected and amended specification; and thereupon and thereafter, to wit, on or about the 8th day of May, 1861, at the said Patent Office, upon the application of the said Charles Eddy and Jacob Shavor in due form of law to the Commissioner of Patents, letters patent for the aforesaid new and useful improvement were duly reissued on a second amended and corrected specification in the name of the United States of America, in due form of law, under the seal of the Patent Office of the United States, signed by Jacob Thompson, Secretary of the Interior, and countersigned by Philip F. Thomas, Commissioner of Patents, bearing date on the 8th day of May, 1860, wherein and whereby was granted to the said Charles Eddy and Jacob Shavor, their heirs, administrators, or assigns,
26 for the term of twenty-one years from and after the said fourth day of January, one thousand eight hundred and forty-five, the full and exclusive right and liberty of making, constructing, using, and vending to others to use or be used, the said improvements, as by the said letters patent will fully appear, which said letters patent, reissued as last aforesaid, a true, correct, and printed copy of which, with the specification, claim, description, and drawings, is hereto annexed, your orators pray may be deemed and taken as a part of this their bill of complaint, and to which they ask leave to refer.

And your orators further show unto your honors that the said exclusive right and privilege, so as aforesaid secured to the said Henry Stanley, in and by the said extended letters patent, for a term of seven years from and after the 4th day of January, 1859, and assigned to the said Charles Eddy and Jacob Shavor, as aforesaid, and reissued to them, the said Charles Eddy and Jacob Shavor, as last aforesaid, has been and is possessed and used by them, the said Charles Eddy and Jacob Shavor, since the said indentures of assignment or deeds were executed and delivered as aforesaid, and is of great and important value to them, to wit, of the value of fifty thousand dollars.

27 And your orators further show to your honors that since the time of making and delivering the said indenture of assignment or deed by John Stanley, as aforesaid, they have enjoyed the said improvements as secured by the said extended letters patent; that they have enjoyed the said

improvements, as secured by the reissued letters patent last as aforesaid, since the same were granted by the last reissue, as aforesaid, and would, exclusive of all other person or persons within the jurisdiction of the circuit court of the United States for the northern district of the State of New York, have continued to enjoy the said right of making, constructing, using, and vending to others to use or be used, the said invention and improvements in the several States of the United States but for the wrongful and unjust acts and conduct of the defendants hereinafter set forth.

But now so it is, may it please your honors, that, as your orators are informed, and believe to be true, and charge the truth to be, the said defendants, John N. Billings and Frederick R. Stow, under the firm-name of Billings & Stow as aforesaid, combining and confederating to injure and prejudice your orators in the exercise and enjoyment of their said rights
28 and privileges secured to them exclusively in and by virtue of the letters patent reissued so as last aforesaid, and to defeat the same, and to hinder and prevent your orators from having and receiving the profits, benefits, and advantages which they might and otherwise, but for the misconduct of the said defendants and the committing of the greviances and injuries by the said defendants hereinafter set forth, would have made and received by the exercise of their said patented rights and privileges; and also otherwise to injure your orators after the reissuing of the said letters patent so as last aforesaid, and the execution and delivery of the said indenture of assignment or deeds as aforesaid, and within the northern district of New York and within the United States of America, the said defendants wrongfully and ingeniously, and without the leave, license, consent, or agreement of your orators or either of them, on divers days since the reissuing of the said letters patent so as last aforesaid, and the execution and delivery of the said indentures of assignment or deeds, that is to say, in or about the months of May and June, one thousand eight hundred and sixty, and on divers days and times thereafter, and continuously up to and until the
29 present, have used, worked, exercised, and vended to others to be used, and now are using, working, exercising, and vending to others to be used, the said invention and improvements so assigned and reissued to your orators as last aforesaid, and have sold and delivered, and still are selling and delivering, to others to be used coal-stoves, which were and are intended to counterfeit, imitate, and resemble, and which do in fact and in truth counterfeit, imitate, and resemble, the said invention and improvements so belonging to your orators, and which contain and are constructed upon and by means of and in accordance to and with the principle thereof, and which are made according to and by means of the said invention and improvements so assigned to your orators and in breach of the said letters patent so as last aforesaid reissued, and in breach of the sole and exclusive privilege granted therein and thereby, and so as aforesaid assigned, transferred, and set over to your orators.

And your orators further show to your honors that by means of such using, working, exercising, and vending to others to be used and putting in practice the said invention and improvements, and by selling and delivering
30 to others to be used the said coal-stoves made in accordance therewith and containing the principle thereof, the said defendants have made, and still are making, great gains and profits. And the said defendants, by means aforesaid and otherwise, have greatly injured, and still are greatly injuring, your orators, and have deprived, and still are depriving, your orators of, and have prevented, and still are preventing, your orators from making, obtaining, and receiving divers great gains and profits which your orators otherwise, and but for the said wrongful acts and conduct of the said defendants, would have made, obtained, and received.

And your orators further show unto your honors that, as your orators are informed and believe, and charge the fact to be, the said defendants from and since in or about the months of May and June, one thousand eight hundred and sixty, and continuously thereafter up to and until the present time, have been, and was, and still are, largely and extensively engaged in using, working, exercising, vending, and putting in practice the said invention and improvements and in vending to others to be used coal-stoves, which were and are intended, as aforesaid, to counterfeit, imitate, and resemble,
31 and which did and do in fact, and are in truth, counterfeit, imitate, and resemble, the said patented invention and improvements so assigned to your orators, and by them reissued so as last aforesaid, and which are made and constructed in accordance to and with, and containing the invention and improvements so invented, patented, extended, assigned, and last reissued so as aforesaid; and that the said defendants have employed, and still do employ, a large number of agents and servants in so as aforesaid using, working, exercising, vending, and putting in practice the said invention and improvements; and that the said defendants have heretofore so as aforesaid sold and delivered coal-stoves to others to vend and to be used in accordance with and containing the principles of the said invention and improvements so as aforesaid patented, and have so as aforesaid vended the same to others to be used to a very great number and amount, to wit, as your orators, awarding to the best of their knowledge, information, and belief, allege and aver the fact to be to the number and amount of five hundred coal-stoves or thereabouts, to wit, at and in the said northern district of
32 New York; that the value of each one of the said coal-stoves so as aforesaid sold and delivered by the said defendants was and is, completed, about the sum of ($11) dollars on an average of the coal-stoves so as aforesaid sold and delivered by the said defendants, as your orators and according to the best of their knowledge, information, and belief; and that as your orators, according to the best of their knowledge, information, and belief, and also aver and charge the fact to be that the profits upon the sale of each one of the said coal-stoves so as aforesaid sold and delivered by the said defendants was and is about the sum of ($2 70) two dollars and seventy cents on an average of the coal stoves so as aforesaid sold and delivered, or caused to be sold and delivered, by the said defendants; and that as your orators, according to the best of their knowledge, information, and belief, also aver and charge the fact to be the damages sustained by your orators by reason of the using and vending to others to be used of each one of the said coal-stoves by the said defendants or as aforesaid, and put or cause to be put into use, and which shall hereafter be put or caused to be put into use, is the full sum and amount of the aforesaid profits, to wit, the sum of
33 ($2 70) two dollars and seventy cents, as aforesaid, and that the whole amount of the damage sustained by your orators by reason of the acts and conduct of the said defendants hereinbefore set forth during the term herein last written and set forth will exceed the sum of two thousand dollars, as your orators believe and allege the fact to be.

And your orators further show unto your honors that your orators have in a quiet and friendly manner applied unto the said defendants and in such manner requested them to desist and wholly and entirely cease and abstain from using, working, exercising, vending, or putting in practice the said invention and improvements so patented, extended, assigned, and last reissued to your orators so as aforesaid, and from vending to others to be used coal-stoves intended in anywise to imitate, counterfeit, or resemble the said invention and improvements, or which contain or operate upon and by means of and in accordance to and with the principle and features thereof, or which are made according to or by means of the said invention and improvements,

in breach of the said letters patent assigned to your orators as aforesaid, and by them last reissued so as aforesaid, and the sole and exclusive
34 right and privilege so granted thereby, extended, assigned, and last reissued as aforesaid, and to account for and to pay your orators all such damages as have been sustained by your orators by reason of the wrongful acts and conduct of the said defendants hereinbefore complained of and set forth; but that the said defendants have altogether and entirely failed, neglected, and refused, and still neglect and refuse, to comply with such reasonable request of your orators, as in equity and good conscience they ought to have done.

And your orators further show unto your honors that the said defendants, John N. Billings and Frederick R. Stow, claim the right and privilege of vending the hereinbefore mentioned coal-stoves described in the said printed copy of the said letters patent, specification, claim, and drawings hereto annexed, as aforesaid, from one Horace M. Ruggles, of the city of New York, who claim and pretend to be the lawful owners of the aforesaid letters patent for and during the said extended term of seven years, by an indenture of assignment from one Henry J. Ruggles, of Poultney, county of Rutland, and State of Vermont, which assignment bears date on the 24th day of July, 1858, and recorded in the Patent Office on the 17th day of May, 1859;
35 and that the said Henry J. Ruggles pretends and claims to have had at the time the right lawfully to have sold, assigned, and conveyed to the said Horace M. Ruggles all the right, privileges, and interest granted to the said Henry Stanley by the aforesaid extended term of seven years of the said letters patent by an indenture of assignment from the said Henry Stanley to the said Henry J. Ruggles, which assignment bears date the 18th day of May, 1853, and which was recorded in the Patent Office July 1st, 1853, in Liber Z 2 of Transfer of Patents, pages 28 and 29. But the said plaintiffs, Charles Eddy and Jacob Shavor, and upon information and belief that the said indenture of assignment from the said Henry Stanley to the said Henry J. Ruggles does not and never was intended to convey any right, title, or interest whatever in, to, and for the aforesaid patented improvements beyond the said term of fourteen years for which the said letters patent were granted on the 4th day of January, 1845, as aforesaid.

And your orators further say they have been informed by the said Henry Stanley, and they aver and believe the same to be true, that the aforesaid assignment from him, the said Henry Stanley, to the
36 said Henry J. Ruggles was executed and delivered under an agreement by and between the parties thereto, by which the interest of the said Henry Stanley in said letters patent, for the original term of fourteen years, was alone contracted to be sold; that the said agreement between the parties did not include or contemplate any right or interest the said Henry Stanley had or might have in or to a renewal or extension of said letters patent, and embraced no right, interest, or claim otherwise than in the letters patent, then held by the said Henry Stanley, and limited by a term thereof to a term of fourteen years from the date thereof; that no consideration or equivalent whatever was paid by the said Henry J. Ruggles to the said Henry Stanley for or on account of any interest or right, whether actual or contingent, of the said Henry Stanley in or to any renewal or extension of the said letters patent; that neither of the parties designed or intended that such assignment should include or transfer any other right in said letters patent or invention than was embraced in and limited to the fourteen years for which the said letters patent were first issued, and that if such assignment contains any phrase or words transferring any right or interest to any renewal of otherwise of said letters patent, the same was

inserted therein inadvertently, and through the mutual mistake of
37 the parties thereto. And your orators pray and insist that said assignment should be reformed and corrected, so as truly to express the intent of the parties thereto in that behalf.

Your orators therefore pray that the said defendants may be decreed to account for, and pay to your orators, all such gains and profits as have accrued or arisen to or been received by the said defendants, or either of them, or which they have been or may be entitled to receive by reason of their using, vending, or putting in practice the said invention and improvements, or any coal-stoves made in accordance therewith, or which gains and profits your orators might or would have made or received but for and by reason of the aforesaid wrongful acts and doings of the said defendants, and that the said defendants, and each of them, their and each of their agents, servants, and each and every of all persons in anywise employed by the said defendants, may be restrained by the order and by injunction of this honorable court from directly or indirectly using, working, exercising, vending, or putting in practice, or buying or selling, or in anywise vending to others to be used, any coal-stoves or other kind of stoves counterfeiting, imitating, or
38 resembling the said invention and improvements, or any part thereof, made in accordance to and with the said extended, assigned, and last reissued letters patent or invention therein described; and that the said defendants may be decreed to pay the costs and disbursements of this suit, and that your orators may have such other and further relief as to this honorable court shall seem meet.

May it please your honors to grant unto your orators the people's writ of injunction issuing out of, from, and under the seal of this honorable court, commanding and restraining the said defendants and each of them, their and each of their agents, servants, and each and every of all other persons in anywise employed by the said defendants as hereinbefore in that behalf prayed.

May it please your honors to grant unto your orators the writ of subpœna issuing out of, from, and under the seal of this honorable court, directed to the said John N. Billings and Frederick R. Stow, commanding them and each of them, by a certain day and under a certain penalty, to be and appear before this honorable court, then and there to answer the premises and to stand to and abide by such order and decree as may be made against them.

39 To the end, therefore, that the said defendants may if they can show why your orators should not have the relief hereby prayed for, and may upon their several and respective corporeal oaths, and awarding to the best and uttermost of their several and respective knowledge, remembrance, information, and belief, full, true, direct, and perfect answer make to such of the several interrogatories hereinafter numbered and set forth as by the enat hereunto written they are respectfully required to answer, that is to say—

1st. Whether the said letters patent were originally granted and issued on the day, month, and year to the said Henry Stanley as hereinbefore stated.

2d. Whether the said letters patent were extended for a term of seven years from and after the 4th day of January, 1859, to the said Henry Stanley as hereinbefore stated.

3rd. Whether the several indentures of assignment or deeds to the several persons hereinbefore mentioned were made after the extension or renewal of the said letters patent for the term of seven years as hereinbefore stated.

4th. Whether the said Charles Eddy and Jacob Shavor reissued the said letters patent after the said several assignments as hereinbefore stated.

40 5th. Whether the said Charles Eddy and Jacob Shavor are the patentees of the said invention and improvements described in and set

forth by the said last reissued letters patent of the said extended term of seven years as hereinbefore stated.

6th. Whether the said defendants, or one and which of them, have not sold and delivered or caused to be sold and delivered unto others to vend and to be used, or are not now selling and delivering, or causing to be sold and delivered, unto others to vend and to be used, and have many coal-stoves having two sections thereof arranged and combined as a whole, consisting of two cylinders, each with four triangular radiating flues arranged around and in contact with the same, one at each corner of a plinth or base, which flues communicate with a flue space in said plinth or base with an intermediate chamber and with a cornice space. Also having a combination of a cone grate with an intermediate chamber. Also having a combination of an upper section or story, and flues arranged and connected therewith, with an intermediate chamber or its equivalent. Also having a combination of a shell or projection with an opening to diffuse and heat the air preparatory to its entrance under and into the fire, to aid, facilitate, and promote the combustion of the fuel, and to increase the volume or quantity of heat by means
41 thereof Also having a combination of a chamber with a damper therein and an exit pipe thereto attached, with an intermediate chamber and cornice at or near the upper part of the upper section of the said coal-stoves, or having any or either of the said combinations or arrangements.

7th. Whether the said coal-stoves, or one or more of them, made and constructed as last aforesaid, and sold and delivered by the said defendants, or caused to be sold and delivered by them or either of them, and which of them, as aforesaid, are not in substance made and constructed to counterfeit and imitate, or intended to counterfeit and imitate, a coal-stove having two sections or stories arranged and combined as a whole, with two cylinders, each containing triangular radiating flues arranged in contact with the same, with a plinth or base containing four square corners, wherein the said triangular radiating flues are, four of them, arranged, having a chamber between the flues thus arranged with the lower section or story. And the said flues thus arranged with the said upper section or story, and with a flue space in the plinth or base, and with a cone grate combined with the said
42 chamber, between the said triangular radiating flues, and with an upper section or story with flues connected therewith in combination with an intermediate chamber, or any equivalent thereof, and with a shell or projection in the lower part of the lower section or story in combination with any opening to diffuse and heat air preparatory to its entrance under and into the fire to aid, facilitate, and promote the combustion of the fuel, and to increase the volume or quantity of heat by means thereof, and with a chamber having therein a damper, and thereto attached an exit pipe in combination with any intermediate chamber, and with any corner space.

8th. How many coal-stoves so in substance made and constructed have the said defendants or either of them, and which of them, sold, vended, delivered or otherwise disposed of, and to whom and when, and where are the same now, and what has been done with the same, and have the same been or are they now in use, and how many such coal-stoves now remain unsold or undisposed of, or otherwise within and under the control and disposition of the said defendants, or either or which of them.

9th. Whether the said Henry Stanley had good and lawful right to
43 petition for, obtain, and receive an extension or renewal of the said letters patent for a term of seven years from and after the expiration of the term of fourteen years, for which the said letters patent were first issued, as hereinbefore stated.

10th. Whether the said Henry Stanley had good and lawful right to sell, assign, and transfer the said extended or renewed letters patent for the

said term of seven years from and after the said 4th day of January, 1859, as hereinbefore set forth; and—

11th. Whether the said term of fourteen years for which the said letters patent were first issued did expire by the limitation of the original grant of the said letters patent on the said 4th day of January, 1859.

The said defendants, and each of them, are required to answer the interrogatories numbered respectively 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11.

CHARLES EDDY.
JACOB SHAVOR.

MARCUS P. NORTON, *Solicitor for Complainants, Troy, N. Y.*
WM. A. BEACH, *of Counsel for Complainants, Troy, N. Y.*

44 NORTHERN DISTRICT OF NEW YORK,
City of Troy, County of Rensselaer, ss:

On this 21st day of June, 1860, before me, the subscriber, a United States commissioner, personally came Charles Eddy and Jacob Shavor, and each for himself made oath that they have read the foregoing bill subscribed by each of them respectively, and know the contents thereof, and that the same is true of their own knowledge, except as to those matters therein stated on information and belief, and that as to those matters they and each of them for himself believes it to be true.

MILES BEACH, *United States Commissioner, Troy, N. Y.*

46 *Reissue No.* 958.

The United States of America to all to whom these letters patent shall come:

Whereas Charles Eddy and Jacob Shavor, of Troy, New York, assignees, through mense assignments of Henry Stanley, of Poultney, Vermont, have alleged that said Henry Stanley did invent a new and useful improvement in coal-stoves (for which letters patent were issued to said Stanley, dated January 4th, 1845, the same extended for seven years from and after January 4th, 1859, the same surrendered by said assignees and new letters issued to them, dated April 10th, 1860, which last letters having been surrendered by them, the same have been canceled and new letters ordered to issue to them on a second amended specification,) which he stated had not been known or used before his application; had made oath that he was a citizen of the United States; that he did verily believe that he was the original and first inventor or discoverer of the said improvement, and that the same had not, to the best of his knowledge and belief, been previously known or used; said assignees having paid into the treasury of the United States the sum of fifteen dollars, and presented a petition to the Commissioner of Patents, signifying a desire of obtaining an exclusive property in the said improvement, and praying that a patent may be granted for that purpose:

These are, therefore, to grant according to law to the said Charles Eddy and Jacob Shavor, their heirs, administrators, or assigns, for the term of twenty-one years from the fourth day of January, one thousand eight hundred and forty-five, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, a description whereof is given in the words of the said Charles Eddy and Jacob Shavor in the schedule hereunto annexed, and is made a part of these presents.

In testimony whereof, I have caused these letters to be made patent, and the seal of the Patent Office has been hereunto affixed.

Given under my hand, at the city of Washington, this eighth day of May,

in the year of our Lord one thousand eight hundred and sixty, and of the independence of the United States of America the eighty-fourth.

JACOB THOMPSON, *Secretary of the Interior.*

Countersigned and sealed with the seal of the Patent Office.

[L. S.] PHILIP F. THOMAS, *Commissioner of Patents.*

48 *Reissue No.* 958.

The schedule referred to in these letters patent and making part of the same.

To all whom it may concern:

Be it known that Henry Stanley, of West Poultney, county of Rutland and State of Vermont, did, on the 4th day of January, A. D. 1845, obtain of and from the United States of America certain letters patent for and upon "new and useful improvements in a stove, or apparatus for heating apartments," and denominated therein "Stanley's coal-burner," and bearing the title of "improvement in coal-stoves," which was extended, in conformity to law, on the 4th day of January, A. D. 1859, for a term of seven years from and after the said 4th day of January, A. D. 1859, and which renewed or extended letters patent was duly assigned to Charles Eddy and Jacob Shavor, each of the city of Troy, county of Rensselaer and State of New York, (and each of the firm of Charles Eddy & Co., of said city, &c.,) by John Stanley, sole assignee of the said Henry Stanley; and which renewed or extended patent was reissued to the said Charles Eddy and Jacob Shavor on the 10th day of April, A. D. 1860, wherein and whereby the said Charles Eddy and Jacob Shavor became patentees, under and by virtue of the aforesaid assignments, by which assignments they became and are the true and lawful owners and holders of the entire invention, improvements, and patent as renewed and extended for the said term of seven years.

We, the undersigned patentees, do hereby declare that the following is a full and exact description of the said invention and improvements, reference being had to the accompanying drawings, and to the letters of reference marked thereon, making a part of this specification, in which Fig. 1 is a front elevation of the coal-burner; Fig. 2 is a vertical section through the centre from front to rear; Fig. 3 is a horizontal section through the fire-chamber; Fig. 4 is a horizontal section showing the grate of the fire-chamber; Fig. 5 is a horizontal section through the plinth, showing the ash-pit and drawer, or ash-pan D; Fig. 6 is a horizontal section showing the conical grate, *i*, at the top of the fire-chamber, the view being taking from below, looking upward into the upper section.

The improvements consist in the construction of the several parts in the combination as a whole, and in the sub-combinations thereof, consisting of a chamber of combustion, a surmounting chamber, and of flues with a peculiar arrangement, and the connections therewith, by which the heat is more perfectly radiated and the fuel better economized than has been heretofore effected, the construction, combination, and combinations being cheap, durable, compact, and ornamental.

The exterior of the coal-burner is composed of a square plinth or base elevated and resting upon four legs. On this plinth or base rests the chamber of combustion, which is surrounded by a square cornice or abacus, denominated "a surmounting chamber," upon which is placed a cylinder, smaller than the one below, which forms the chamber of combustion, which upper cylinder forms an upper section or story capped with a cornice of proportionate dimensions with the one below upon the lower and first section or story. Four columns rise from the said plinth or base to the said cornice, abacus, or surmounting chamber; and four columns rise from the said

cornice, abacus, or surmounting chamber, to the upper cornice of the upper section or story.

The said columns are each and every of them triangular. The exterior surface of each of them may be flat or somewhat convexed. The upper columns are of smaller dimensions than the ones below. The whole may be surmounted with an urn, thus harmonizing and perfecting the outline of the whole, and forming a radiator of greatly extended surface and compact form, in which the surface of radiation do not interfere or counteract each other.

The details of the interior are as follows, to wit: the centre portion of the plinth or base has an ash-pit in it, into which the ash-pan, D, slides in front; this ash-pit is separated from the exterior chamber, *e*, which surrounds three sides of it, as represented at Fig. 5; the division is formed by the projection of the fire-cylinder, A, through the top plate and downward to the bottom plate of the plinth or base, as shown at *g*, same fig. The fire-cylinder, A, which forms the chamber of combustion, is lined with fire-proof brick from the plinth, or base, to the cornice, abacus, or surmounting chamber, E, as seen at *e*, Figs. 2 and 3. At the top of the said cylinder A there is a coned-shaped ring, *i*, more clearly seen at Fig. 6, the base of which is of the diameter of the lower and fire-cylinder, A. It is contracted at the top so as to correspond and conform to the size of the smaller and upper cylinder, A′. The breadth of the said cone-shaped ring is equal to the depth of the cornice, abacus, or surmounting chamber E, by which it forms an annular chamber entirely around the heater. The anterior portion of this cone-shaped ring *i* is pierced with oblong apertures, forming the grating K, which extends over and upon about two thirds of its circumference, thus forming a communication between the surmounting chamber E and the upper part of the said fire-chamber. The said cone-shaped grate *i* may be perforated with holes of any required form or size, and thus and thereby form a communication from the said fire-chamber into the said chamber E. The said ring *i*, may be otherwise constructed to answer and accomplish the same purpose as herein described. Immediately in the rear of the said grating K there is a partition on each side, as seen at *j*, Figs. 2 and 6, which divides the said chamber into two unequal parts. The triangular flues, B, hereinbefore named, each open at the upper end thereof into the surmounting chamber E, and at their respective lower ends into the chamber in the plinth or base, as seen at *c*′, Figs. 4 and 5. The front flues, B, communicate with the front division of the said chamber E, and the rear flues B open into the rear portion of the said chamber E. The cone grate *i* is intended for and does accomplish three very important purposes at least, the first of which is the protection of the said chamber E and the said flues B from and against the entrance of coal or ashes therein, by which they would become clogged; second, the grating or perforation, hereinbefore specified, diffuses the heated products of combustion into the said chamber E,
49 and thus spreads out to the whole surface of the radiating chamber E the heat from the fire before the gases descend to the plinth or base; and third, the outer surface of the said chamber E is shielded from the direct action of the heat arising from and by reason of the coal or fire in the said fire-chamber, whereby rapid and undue destruction of the iron and the injurious effect upon the external atmosphere, caused by the too highly heated iron, is prevented.

In the front of the cylinder A there is a draft port or opening directly opposite, and may extend a little above or a little below the top part of said grate, as the case may require, which grate is surrounded by a shell, or conical ring, descending downward and below the said draft port, or opening, to any required distance, and more clearly seen at *x*, Fig. 2. The air enters the said draft port *s*, impinges upon and against the said shell *x*,

around which it circulates, becomes highly heated by virtue thereof, and while in a diffused and heated state or condition descends down upon and under the said shell *x*, at all points thereof, and around the said grate, and thence rises to supply heated air to the fire for the purpose of aiding, facilitating, and promoting the combustion, and to increase the volume or quantity of heat from a small amount of fuel. By this arrangement there a space between the said shell *x* and the outer plate of the stove, in which the air is heated as hereinbefore stated, preparatory to its entrance under the fire, all of which forms a combination for the purpose above stated.

The cylinder A′, which is entirely open to and into the lower cylinder at the bottom part thereof, has openings surrounding the front portion of its top, which communicate with the chamber in the cornice G′. This chamber is divided like the said chamber E, by plates *m*, Fig. 2. The radiating corner flues, B′, open into the said cornice G, at the top thereof, and into the said chamber E, below and at the bottom thereof. The purpose of this arrangement is two-fold: first, by means thereof the radiating surfaces are materially extended; and second, the deleterious gases rising into this chamber A′ from the fuel, are drawn off, descend into the said chamber E, and thence follow the main current through the flues B, and thus are prevented from entering into the apartment. In the front of cylinder A′ there is a door, through which fuel is supplied to the fire, and in this door, as well as in the two sides of the said cylinder, there is an open work panel, into which mica is inserted to show the fire, or the light therefrom. In the rear part of the top plate *h* of the said chamber E there is an opening, *n*, as seen at Fig. 6, made of a proper size to insure a perfect draft. This opens into a chamber, H, which is formed in the rear of the cylinder A′. This has an opening and collar, F, for the attachment of a smoke or exit pipe, as in ordinary stoves. An opening is made from the said cylinder A′ directly into the said chamber H, thereby forming a direct draft to the exit pipe at F, which is for the purpose of facilitating the kindling of fires, or for any other purpose desired. This opening regulates or changes the current of the draft by means of a damper, which opens into the said chamber H. This damper is lettered *o*, in Fig. 2. It is moved by a stem, P, which projects through the back of the chamber H.

When this damper *o* is closed the course of the draft is downward through the front flues B B′, back and along the side chambers of the plinth, or base, thence upward and through the back flues B, into the chamber H, into and through the rear part of the said chamber E, the gases in the upper cylinder A′ being drawn down by the current below.

Having thus described the original invention of the aforesaid Henry Stanley for improvements in coal-burners, what we claim as his invention and improvements therein is, first, the manner in which he arranged and combined as a whole the two sections or stories thereof, consisting of two cylinders, each with four triangular radiating flues arranged around and in contact with the same, one at each corner of the said plinth or base, which flues communicate with the flue space in the plinth or base, with the intermediate chamber E, and with the cornice space G, as herein described and set forth.

We also claim the combination of the grate *i* with the intermediate chamber E, substantially as and for the purposes herein set forth.

We also claim the combination of the upper section or story, and the flues arranged and connected therewith, with the intermediate chamber E, or its equivalent, as and for the purpose herein specified.

We also claim the combination of the said shell or projection *x* with the said opening *s*, to diffuse and heat the air preparatory to its entrance under and into the fire, to aid, facilitate, and promote the combustion of the fuel,

and to increase the volume or quantity of heat by means thereof, as herein described.

We also claim the combination of the chamber H, having therein the damper *o*, and thereto attach the exit pipe F, with the intermediate chamber E, and the cornice G, as herein described and set forth.

In testimony whereof, we have, on this 28th day of April, 1860, hereunto set our hands.

CHARLES EDDY.
JACOB SHAVOR.

Witnesses : MARCUS P. NORTON.
HENRY STANLEY.

[Here follows diagram, page 49.]

50 United States circuit court, northern district of New York, in equity.

CHARLES EDDY AND JACOB SHAVOR
vs.
JOHN N. BILLINGS AND FREDERICK R. STOW.

The joint and several answers of John N. Billings and Frederick R. Stow, defendants, to the bill of complaint of Charles Eddy and Jacob Shavor, complainants. These defendants reserving to themselves all right of exception to the said bill of complaint, for answer thereto say that they admit that they are partners in business under the firm-name of Billings & Stow, residing in the city of Troy, and are citizens of the State of New York.

And these defendants, further answering, admit that on the 4th day of January, 1845, letters patent of the United States were granted unto the said Henry Stanley, forcertain alleged new and useful improvements in coal-stoves, but they have no knowledge or information sufficient to form a belief whether the said improvements were invented by the said Stanley, or
51 were new and useful.

And these defendants, further answering, deny, upon information and belief, that the said Henry Stanley, was the original and first inventor of the said alleged invention and improvements shown in the model and drawings upon which his said application for letters patent was duly made and entered upon file in the Patent Office, or that the same was not known or used by others before the invention or discovery thereof by the said Henry Stanley, or was not at the time of his application for letters patent in public use and on sale, with the knowledge and consent, and allowance of the said Henry Stanley, and they deny that the said Henry Stanley did deliver with the Commissioner of Patents, at the time of his said alleged application for a patent, a description in writing of and concerning his said alleged invention and improvements, so setting forth the manner and process of making, constructing, and using the same in such full, clear, and exact terms as to enable any person or persons skilled in the art to which it relates to make, construct, and use the same.

And these defendants, further answering, deny that the said Henry Stanley did, at the time of making his alleged application for letters patent,
52 clearly show in and by his alleged model and drawings his said alleged invention or improvement, or the combinations or sub-combinations of the same, or did at the same time prepare or caused to be prepared a specification in writing, wherein or whereby he specified and pointed out a certain part, improvement, or combination, or claimed the same as his invention or discovery, or that the same was accompanied with drawings of said alleged invention, with reference in characters or writing showing or

representing the same, or the combination thereof as a whole or sub-combination of the same, or that the said alleged specification or description and drawings were duly signed by the said Stanley, or attested by two witnesses, as were filed in the Patent Office in his said alleged application for letters patent upon the said alleged invention, within or before the expiration of two years from and after the said alleged invention was completed by the said Henry Stanley, or that the said Stanley did furnish a model of his said alleged invention or improvements, wherein or whereby he did show the combinations as a whole or the sub-combinations of the same, or that
53 said model was filed in the Patent Office, or that the said Stanley did at that time or afterwards, in all things, comply with the requirements of the statutes entitling him to receive letters patent of the Unites States of America.

And these defendants, further answering, deny, upon information and belief, that the said alleged invention or improvement, was during the said term of fourteen years, one of great value or importance to the public, or that after the granting of said letters patent the said Stanley put or caused to be put the said alleged invention or improvements into public use.

And these defendants, further answering, say that they have no knowledge nor information sufficient to form a belief whether the said Henry Stanley, prior to the 4th day of January, 1859, made an application in writing to the Commissioner of Patents, wherein he set forth his claims, rights, and the grounds thereof; or paid into the treasury of the United States the sum of forty dollars, or furnished the said Commissioner of Patents a statement in writing, under oath, of the ascertained value of the said alleged invention and improvements, and of the receipts and expenditures by him re-
54 ceived and made, exhibiting a correct and faithful account of loss and profit in any way or manner accruing to him from the said alleged invention, or whether he, said Stanley, did in all or anything comply with the requirements of the statute relating or pertaining to the same, and entitling him to receive an extension of said letters patent from and after January 4th, 1859, or whether thereupon proceedings were had and taken by and before the said Commissioner of Patents, so that on or before the said day the said Commissioner did grant a term of seven years in addition to the said term of fourteen years, did renew, revive, or extend the said letters patent for the said term of seven years after and beyond the expiration of the original term of fourteen years, or whether the said Commissioner did make the certificate in writing of such extended term of seven years, which was attached to or annexed to the said letters patent, or was duly extended of record in the Patent Office before the expiration of the said term of fourteen years, or whether said certificate in all respects complied with the requirements of the law in such case made and provided, or was under the seal of the Patent Office, and therefore deny the allegation in that behalf in said bill of
55 complaint contained.

And these defendants, further answering, say they have no knowledge or information sufficient to form a belief whether an assignment was executed by the said Henry Stanley to one John Stanley, as is alleged in said complaint, or whether the said John Stanley executed an assignment of his interest in the said invention and improvements for said extended term to the said Charles Eddy & Co., as set forth in said bill of complaint, and therefore deny the allegations in that behalf.

And these defendants further answering, deny that the said complainants became or were on the 24th day of March, 1859, or have ever since been, or still are, the owners of and vested with the rights or privileges granted to the said Henry Stanley by the said letters patent, as extended for the term of seven years.

And these defendants say that they have no knowledge or information sufficient to form a belief whether the said complainants surrendered the said letters patent on or about the 17th day of February, 1860, or whether on or about the 10th day of April, 1860, the Commissioner of Patents
56 reissued letters patent to the complainants in due form of law, or whether on or about the 27th day of April, 1860, the said complainants did surrender the said letters patent so reissued, or whether new letters patent were issued to them in conformity to law on or about the 8th day of May, 1860, and therefore deny the allegations in that behalf in said bill of complaint contained.

And these defendants, further answering, deny that the exclusive right and privilege secured to the said Henry Stanley by said extension and renewal, have been or are possessed and used by said complainants or are of great or important value to them, as alleged in said bill, and they deny that the said complainants have enjoyed the said improvements as secured by said extended letters patent, or have enjoyed the same since the said patent was last reissued, or would have continued to enjoy the same in the northern district of New York, but for the act and conduct alleged against these defendants in said complaint.

And these defendants, further answering, admit that on or about the 18th day of May, 1853, the said Henry Stanley, executed and delivered unto one Henry J. Ruggles the assignment or conveyance mentioned in said
57 bill of complaint and recorded in the Patent Office on the first day of July, 1853, as alleged in said complaint, and they say that they are informed and believe that the said assignment and transfer so executed and delivered did convey and was intended to transfer and convey unto the said Henry J. Ruggles the full and exclusive right to the said alleged invention and improvements, in and for the State of New York, (among other territory,) to the end of the extended term for which said letters patent are alleged in said complaint to have been granted.

And these defendants, further answering, deny that the said assignment from Henry Stanley to said Henry J. Ruggles was executed and delivered under the agreement mention and set forth in said complaint, and they deny that no consideration was paid by the said Ruggles to the said Stanley for an interest in the extension or renewal of said patent; and they deny that either of the said parties designed or intended that such assignment should include or transfer any other right in said letters patent or invention
58 than was embraced in the fourteen years for which said patent was first issued; and they deny that any phrase or words were inserted in said assignment inadvertently or through the mutual mistake of the parties thereto.

And these defendants, further answering, say that they are advised, and allege, that by virtue of the aforesaid assignment to Henry J. Ruggles mentioned and set forth in said bill of complaint, executed and delivered to him by the said Henry Stanley, on or about the 18th day of May, 1853, and duly recorded in the Patent Office on the first of July, 1853, and to which, or certified copy thereof, they crave leave to refer, all the right, title, and interest of the said Stanley of, in, and to the said invention during the said alleged extended term of said patent within and for the State of New York, was transferred and passed to the said Henry J. Ruggles, or his legal representatives, and that the said surrender and reissue of the said patent to the said complainants, as set in the said bill, were and are void and of no effect in law.

And these defendants, further answering, say that in and by the specification or written description attached to the letters patent issued as
59 aforesaid on the 4th day of January, 1845, the said Stanley set forth a certain combination or arrangement of the parts of said stove as a

whole, to which he limited his claim as the inventor thereof, as will appear by reference to the said specification, or a certified copy thereof, ready to be produced by these defendants as the court shall direct, and they say that in and by the specification attached to the aforesaid reissued patent of May 8th, 1860, mentioned and set forth in the said bill of complaint, the said complainants claim as the invention of the said Stanley other and different combinations from the one so claimed and described in the original specification aforesaid, and that by reason of the claim so made in said reissued patent the same is thereby rendered invalid and of no effect in law, and should be declared void.

And these defendants, further answering, say that they are informed and believe, and charge the truth to be, that in or about the month of September, 1839, the said Henry Stanley invented and made certain improvements in coal-stoves, and constructed a stove, which he called or named the
60 Stanley Coal-Burner, and on or about the 3d day of October, 1839, the said Stanley made an application for letters patent upon the said invention and improvements, and deposited in the Patent Office a specification or description, in writing, of and containing his said invention, and pointing out the part, improvement, and combination which he then and there claimed as his invention or discovery, and accompanied the same with drawings, showing and representing said invention, and furnished a model of his said invention, and filed the same in the Patent Office, and paid into the treasury of the United States the sum of thirty dollars, and in all things complied with the statute, entitling him to a patent for said invention and improvements. That the said specification and drawings so filed as aforesaid were afterwards, and on or about the 4th day of November, 1839, returned to the said Henry Stanley, by the hon. Commissioner of Patents, with a letter containing a suggestion that the same should be amended or altered in some slight particular, which letter also contained an offer by the said Commissioner to accept the said specification and claim as it was made
61 by the said Stanley, if he should prefer it, but the said Stanley, as these defendants are informed and believe, never amended or altered the said specification or drawings, or never returned or refiled the same in the Patent Office, or prosecuted the claim for a patent so made as aforesaid, but abandoned and neglected the same.

And they say that, as they are informed and believe, during the said year 1839, the said Stanley, at the foundery of H. Stanley & Co., in Poultney, and State of Vermont, made, or caused to be made, and sold one hundred of the said stoves, or coal-burners, containing the invention and improvements for which he had applied for letters patent, as aforesaid.

And these defendants, further answering, say, upon information and belief, that in or about the months of August and September, 1840, and not before, the said Stanley invented certain other improvements in coal-stoves and on or about the 5th day of said September constructed and fabricated a stove containing the said invention and improvements, and afterwards, and during the said year of 1840, made, or caused to be made, and sold one hundred and fifteen of the said stoves, or coal-burners, containing the said inven-
62 tion and improvements so invented in 1840, as aforesaid, and in and during the year 1841 the said Stanley made, or caused to be made, constructed, and sold two hundred and eighty-eight of the said stoves, or coal-burners, containing the said improvements so made in 1840. That in or about the month of January, 1842, the said Stanley sold, assigned, transferred, and delivered, among other things, all his personal property unto A. W. Hyde, Henry J. Ruggles, and William Wheeler in trust for the benefit of the creditors of the said Stanley; that among the property so transferred and delivered are the patents from which and by means of which the said stoves and

coal-burners containing the said invention and improvements had been made and constructed; that the said trustees, with the knowledge, consent, and approval of the said Stanley, made, constructed, and sold in and during the year 1842, at Poultney aforesaid, three hundred and eighteen of the said stoves or coal-burners containing the said invention and improvements invented in the year 1840, as aforesaid; that in or about the month of June, 1843, the said Hyde, Ruggles, and Wheeler, trustees as aforesaid, at the request of the said Stanley, and with the consent of a majority of the
63 creditors of the said Stanley, sold, assigned, and transferred unto W. W. Kingsley and S. P. Hooker, receivers, nominated by the said creditors, all the real and personal estate remaining in their hands as such trustees or assignees, and among the property so transferred and delivered were the patents from which the said stoves or coal-burners containing the said invention had been made and constructed by the said Stanley and the said trustees; that with the knowledge, consent, and approval of the said Stanley, the said S. P. Hooker, one of said receivers, made, constructed, and sold two hundred and five of said stoves or coal-burners containing the said invention and improvements, between the months of June, 1843, and July, 1844, at the foundery aforesaid, in Poultney, Vermont; that in or about the month of July, 1844, the said patents from which said stoves and coal-burners had been made as aforesaid, were, at the request and with the knowledge and consent of the said Stanley, sold, transferred, and delivered to Joseph Sheldon, jr., and were in or about the same month delivered to Henry J. Ruggles, at the request and with the knowledge and consent of
64 the said Stanley, who upon the like request commenced to manufacture stoves or coal-burners containing the said invention and improvements from the said patents, and continued to manufacture and sell the same during the rest of the said year 1844.

And these defendants, further answering, say that they are informed and believe, and aver, that the said Henry Stanley made no application for letters patent upon and for the said invention and improvements invented and made by him in the year 1840, as aforesaid, until on or after the 15th day of August, 1844; that no specification or description in writing of the said invention was made or filed by said Stanley until on or after the said day, and that no drawings of the same were filed until on or after said day, and that no model of the said invention was furnished or deposited in the Patent Office until on or after the same day. And they say that they are informed and believe that the invention and improvements so invented, matured, and made by the said Henry Stanley, in and during the months of August and September, 1840, as aforesaid were and are the invention and im-
65 provements for which letters patent were granted to the said Stanley on the 4th day of January, 1845.

And these defendants, further answering, say that they are advised and believe, and allege, that by the acts and conduct of the said Henry Stanley in and about and concerning the said invention and improvements so made, invented, and discovered in the year 1840, as aforesaid, the said invention and improvements became and were abandoned and dedicated to the public, and the said letters patent therefore granted as aforesaid were and are wholly void and of no effect in law.

And these defendants, further answering, say that they are informed and believe that prior to the application of the said Henry Stanley for a patent for the said invention and improvements so made by him in the year 1840, as aforesaid, the said invention and improvements were purchased, sold, and used; and that such purchase, sale, and use of the said invention and improvements was for more than two years prior to the application by the said Henry Stanley for a patent therefor and for more than four years prior

to such application. And as they are advised and believe such pur-
66 chase, sale, and use, renders the said patent granted January 4th, 1845, invalid and of no effect in law.

And these defendants further say that they are informed and believe that the said invention and improvements made by the said Henry Stanley, and for which letters patent were granted January 4th, 1845, were known and used before the 15th day of August, 1844, and before the application for a patent by the said Stanley, and that the said invention and improvements so made by the said Stanley, as aforesaid, had been in public use and for sale, with the consent and allowance of the said patentee, before his application for a patent.

And these defendants, further answering, say that they are informed and believe that in or about the year 1847 the said Stanley supretended the construction of stove at Poultney aforesaid, at the request of the said H. J. Ruggles and for his use and benefit, which stove contained and was constructed with a grate frame, resembling and intended to be a copy of the grate frame contained in and made with the stove or coal-burner patented, as aforesaid, January 4th, 1845, and designated in the copy of said reissued patent, annexed to the bill herein, as the shell x; that said grate frame
67 was combined in said stove, so made by the said Stanley upon the request aforesaid, with a draft door or aperture to admit air under the grate, resembling and in position and in all respects similar to the opening called in said copy of said reissued patents; that iron patterns of the stove so designed by the said Stanley were made under the direction of said Stanley, and with his knowledge and consent stoves were made and sold from the said patterns, said stoves containing a combination of a shell or conical ring descending downward and below a draft opening, with such draft opening substantially like and intended to resemble the said shell x and draft part or opening s in the said patent claimed, and that with the knowledge and approbation of said Stanley, patterns of the said stoves so constructed as last aforesaid, with the said shell or draft opening, were made by said Ruggles, and sold for use, to be used in the manufacture of said stoves, to other stove manufacturers, and have been so publicly used with the knowledge and consent of said Stanley and without any remonstrance or objection by him against or to such use. By reason of which said premise the
68 said Stanley abandoned and dedicated to the public the use of the combination of said shell x and opening s aforesaid, and the claim of said combination in said reissued patent is void, invalid, and of no effect in law. And the said complainants are not entitled to the exclusive right to use and to vend to others to be used the said combination of the shell x, draft part s.

And these defendants, further answering, deny that they are making great gains and profits by using or vending to others the said pretended invention, as alleged in said bill of complaint, or that they have prevented or are preventing the said complainants from making or receiving great gains and profits, or that the said alleged exclusive right and privilege claimed by said complainants is of the value of fifty thousand dollars, or any like sum.

And these defendants, further answering, deny that in or about the month of May or June, 1860, or at any time since, they have used, worked, exercised, or are using, working, exercising, or vending to others to be used, the said pretended invention and improvements, or have sold, or delivered to others to be used, coal-stoves which were or are intended to coun-
69 terfeit, imitate, or resemble, or which do counterfeit, imitate, or resemble the said patented invention and improvements, or which contain, or are constructed upon, by means of, or in accordance with, the

principle thereof, or in breach of the rights and privileges of the complainants, as alleged in said bill.

And these defendants, further answering, deny that they are or have been largely or extensively, or at all engaged in using, working, exercising, vending, or putting in practice the said pretended invention and improvements, or in vending to others to be used coal-stoves, which were and are intended to counterfeit, imitate, or resemble the said pretended invention and improvements, or made in accordance with, or containing the invention and improvements described in, said patent, as alleged in the said bill of complaint, or that they have or do employ a large or any number of agents and servants in using, working, exercising, vending, or putting in practice the said invention and improvements, or have *have* heretofore, since the 8th day of May, 1860, sold and delivered coal-stoves to others to vend or to be used containing the principle of said pretended invention and im-
70 provements to the number of five hundred, or any like number, or that the value of said coal-stoves is the sum of eleven dollars, or any like sum, or that the profits upon the sale of any such stoves is the sum of two dollars and seventy cents, or any like sum, or that the damages sustained by the complainants by the sale of each one of said stoves is two dollars and seventy cents, or any other sum, or that the whole amount of damages sustained by them is two thousand dollars, or any other sum.

And these defendants, further answering the said bill of complaint, in answer to the special interrogatories therein contained, say—

First. They admit that letters patent were granted to the said Henry Stanley, as alleged in said bill, but whether they were in the form set forth they have no knowledge or information sufficient to form a belief.

Second. They say they have no knowledge nor information sufficient to form a belief whether the said letters patent were extended, as averred in said complaint.

Third. They have no knowledge or information sufficient to form a belief whether the said indentures of assignment were made after the alleged extension or renewal of said patent, as set forth in said complaint.

71 Fourth. They have no knowledge nor information sufficient to form a belief whether the said Charles Eddy and Jacob Shavor reissued the said letters patent alleged in said complaint.

Fifth. They deny, upon information and belief, that said Eddy & Shavor are the patentees of the said invention and improvements by the said reissued letters patent of the said extended term, as avered in said complaint.

Sixth. They admit that they have, since the 8th day of May, 1860, sold and delivered to others to vend and to be used, ninety-six coal-stoves having a combination of a cone grate, with an intermediate chamber, and having a combination of a shell or projection, with an opening, as set forth in said sixth special interrogatory, but they deny that the said coal-stoves had or contained the other combinations in said interrogatory described.

Seventh. They say that they have not, nor has either of them, sold or delivered, or caused to be sold and delivered, any coal-stoves, or stoves in substance made or intended to counterfeit or imitate a stove constructed as described and set forth in said seventh interrogatory.

Eighth. They say that they have not, nor has either of them, sold any coal-stoves in substance made and constructed as in the said seventh
72 interrogatory set forth, nor have they, or either of them, any such coal-stoves now unsold or within or under their control.

Ninth. They say in answer to the ninth interrogatory that they have no knowledge nor information sufficient to form a belief.

Tenth. They deny that said Henry Stanley had good and lawful right to

sell, assign, and transfer the said extended or renewed letters patent for the term of seven years after the 4th day of January, 1859.

Eleventh. They admit that the said term of fourteen years expired on the said 4th day of January, 1859.

And these defendants, further answering, deny any and all manner of unlawful combination and confederacy against them, as by the said bill charged, and without this, that there is any other matter, cause, or thing in the complainants' bill of complaint contained, mentioned, or necessary for these defendants to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed, avoided, or denied, is truth, to the knowledge or belief of these defendants. All which matters and things these defendants are ready and willing to aver, maintain, and prove,
73 as this court shall direct, and they pray to be hence dismissed, with their reasonable costs and charges.

JOHN N. BILLINGS.
FRED'K R. STOW.

PETER STARR, *Def'ts' Sol.*
H. M. RUGGLES, *of Counsel.*

NORTHERN DISTRICT OF NEW YORK, *County of Rensselaer, ss:*

On this 31st day of August, 1860, before me came John N. Billings and Frederick R. Stow, and made oath severally, and each for himself, that he had read the foregoing answer, and knows the contents thereof, and that the same is true of his own knowledge, except as to those matters therein stated upon information and belief, and as to those matters he believes it to be true.

JOHN N. BILLINGS.
FRED'K R. STOW.

Subscribed and sworn to before me this thirty-first day of August, 1860, at the city of Troy, N. Y.

GEO. GOULD,
A Justice of the Supreme Court of the State of New York.

74 United States circuit court, in equity.

Supplemental bill to original bill, dated June 21, 1860. Subscribed and sworn to on the 21st day of June, 1860, and filed with the clerk of this court on the 13th day of July, 1860. Dated Jan. 3d, 1861.

NORTHERN DISTRICT OF NEW YORK:

CHARLES EDDY AND JACOB SHAVOR
against
JOHN N. BILLINGS AND FREDERICK R. STOW.

To the judges of the circuit court of the United States for the northern district of New York:

Charles Eddy and Jacob Shavor, each of the city of Troy, county of Rensselaer, State of New York, and each a citizen of the said State of New York, and who are partners in business under the firm-name of Charles Eddy & Co., in said city of Troy, bring this their supplemental bill to their original bill in this action, dated June 21th, 1860, and by them respectively subscribed and sworn to on the 21st day of June, 1860, and filed with the clerk of this court on the 13th day of July, 1860, against John N. Billings, of Troy, in the county of Rensselaer and State of New York, and who is a citizen of the State of New York, and against Frederick R. Stow, of the city of Troy and county of Rensselaer, and who is a citizen of the State of New York.

And thereupon your orators say that on or about the 13th day of July, 1860, they filed their bill of complaint with the clerk of this hon. court, in the northern district of New York, in the second circuit, against the above-named defendants for an infringement upon and a violation of certain letters patent therein named and set forth, within the said northern district of New York; that in the said bill your orators set forth the date of the said letters patent, that the same were granted and issued to one Henry Stanley in conformity to law, upon his application therefore as by law required, for improvements in and relating to coal stoves or burners; that the said letters patent were duly extended for a term of seven years from and beyond the expiration of the term for which the same were originally granted; that after the said extension to the said Henry Stanley, the said letters patent were duly assigned by the said Henry Stanley to one John Stanley for the entire term of the said extension; that after the said assignment, the said John Stanley duly assigned the said letters patent and all his interest therein for the residue of the said extended term, to Charles Eddy and Jacob Shavor, your orators; that after said assignment, the said Charles Eddy and Jacob Shavor duly surrendered, in conformity to law, the said letters patent, extended as aforesaid, and thereupon new letters patent were granted, issued, and delivered to them in due form of law upon a corrected and amended specification, bearing date on or about the 8th day of April, 1860; that afterwards the said letters patent as reissued were by them duly surrendered in conformity to law, and thereupon new letters patent were granted, issued, and delivered to them in due form of law upon a second corrected and amended specification, bearing date on or about the 10th day of May, 1860.

And your orators further say that they set forth in their said original bill that after the last reissue of the said letters patent as aforesaid, the said defendants, on divers days and times thereafter, and continuously up to and at the time of the filing of the said bill with the clerk of this hon. court as aforesaid, and within the said northern district of New York, had infringed, and were then infringing, upon the said letters patent and the rights and privileges patented to your orators as therein stated and set forth, by using, working, exercising, and selling unto others to vend and use, coal stoves or burners, counterfeiting and resembling and operating upon the same principle, feature, or plan of the said coal stove or burner patented as aforesaid; that the same was in violation of the exclusive rights, privileges, and interest of your orators so to them assigned and secured by the said letters patent.

And your orators further say that they stated and set forth in their said bill that the said defendants claimed then to have the right to so use, work, exercise, and sell the said coal stoves or burners under one Horace M. Ruggles, who claimed to have the right, by virtue of a certain deed of assignment from one Henry J Ruggles, bearing date on or about the 24th day of July, 1858; that the said Henry J. Ruggles claimed to have the right so to assign through a certain deed of assignment from the said Henry Stanley, bearing date on or about the 18th day of May, 1853; all of which your orators denied, as and in the manner set forth in their said bill of complaint, which denial your orators now here again affirm and aver to be true as therein stated and averred.

And your orators further say that they stated in their said original bill in this action that they had received and were receiving great damages and injuries to their business, and to their aforesaid rights and privileges patented as therein set forth, by reason of the wrongdoing and acts of infringement upon said letters patent by the said defendants, John N. Bil-

lings and Frederick R. Stow, which were therein specially charged and averred to be true.

And your orators further say that they prayed in their said bill that the said defendants might be decreed by this hon. court to account for, and to pay to your orators, damages by reason of the said acts of infringement upon and violation of the said letters patent, whereby great gains and profits to said defendants accrued, which otherwise would have justly and lawfully accrued to your orators as therein stated; also, for an order or an injunction granted and issued by this hon. court, under the seal thereof, restraining the said defendants, and each of them, their and each of their agents, servants, workmen, and each and every of all other persons in anywise employed by said defendants, from directly or indirectly using, working, exercising, and selling the said coal stoves or burners, or any part thereof, so patented, extended, assigned, and last reissued; also, that said defendants might be decreed to pay the costs of the said suit, and that such other and further relief might be granted as this hon. court might deem best; that it might please your honors to grant the people's writ of injunction issuing out of and from, and under the seal of, this hon. court, therein commanding and restraining the said defendants and each of them, and each and all of their agents, workmen, servants, and each and every of all other persons in anywise employed by the said defendants, as therein in that behalf prayed.

And your orators further say that a writ of subpœna issued out of
75 and from, and under the seal of, this hon. court, directed to the said defendant John N. Billings, and to the said defendant Frederick R. Stow, wherein they, and each of them, were commanded on a certain day to be and appear before this hon. court, then and there to answer the premises, and to stand to and abide by such order and decree as might then and there be made against them, and that the said defendants duly entered their appearance in said action.

And your orators further say that the said defendants, and each of them, were in said original bill required to answer the several interrogations therein respectively set forth and numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11.

And your orators further say that a motion, founded upon said original bill, and upon affidavits and exhibits, has been made, and a decree thereon was rendered in favor of your orators by the Hon. Samuel Nelson, one of the judges of this court, and before whom said motion was made, for a preliminary injunction to issue, by order of this honorable court, against the said defendants, therein commanding and restraining them the said defendants) as prayed by your orators in their said original bill of complaint, and that said defendants appeared and opposed said motion; that an injunction issued in pursuance of an order by the Hon. Samuel Nelson aforesaid. And your orators further say that since the making of the said motion, and while the said decree was in full force, and on or about the 7th day of November, 1860, they, in pursuance of the statute and statutes in such case made and provided, did surrender the said letters patent as then second and last reissued, mentioned and described in the said bill of complaint, and the said letters patent were duly cancelled for the purpose of allowing new letters patent to issue for the same invention upon a corrected and amended specification; that thereupon new letters patent were ordered to issue to your orators, the said Charles Eddy and Jacob Shavor, in conformity to law, upon a certain corrected and amended specification, a true, correct, and printed copy of which is hereto annexed and made a part of this supplemental bill; and thereupon and thereafter, to wit, on or about the 13th day of November, 1860, at the said Patent Office, upon the application of the said Charles Eddy and Jacob Shavor, in due form of law made to the Commissioner of Patents, letters patent for and upon the said new and useful im-

provements in coal stoves or burners mentioned and set forth in the said original bill of complaint, were duly reissued on the last aforesaid amended and corrected specification in the name of the United States of America, signed by Jacob Thompson, Secretary of the Interior, and countersigned by Philip F. Thomas, Commissioner of Patents, bearing date on the 13th day of November, 1860, wherein and whereby was granted to the said Charles Eddy and Jacob Shavor, their heirs, administrators, or assigns, for the term of twenty-one years from and after the 4th day of January, 1845, the full and exclusive right and liberty of making, constructing, using, and vending to others to use or be used the said improvements in coal stoves or burners, as by the said letters patent will fully appear, of which said letters patent reissued as last aforesaid a true, correct, and printed copy, with the specification, claims, and description, is hereto annexed, and which your orators pray may be deemed and taken as a part of their bill of complaint, and to which they ask leave to refer.

And your orators further show unto your honors that the said exclusive right and privilege so secured to the said Henry Stanley as stated and set forth in the said original bill, as the first and original inventor, as therein stated and set forth, in and by the said extended or renewed letters patent, for a term of seven years from and beyond the said 4th day of January, 1859, and assigned to the said Charles Eddy and Jacob Shavor, as stated and set forth in said original bill, has been and is possessed and used by them, the said Charles Eddy and Jacob Shavor, since the said indenture of assignments or deeds were executed and delivered as in said original bill stated and set forth, and is of great and important value to them, to wit, of the value of fifty thousand dollars, as therein stated.

And your orators further show unto your honors that since the time of the making and delivering of the said indenture of assignment or deed by John Stanley, as in said original bill stated and set forth, they have enjoyed the said invention and improvements as secured by the said extended or renewed letters patent, and by the said reissues, dated respectively on the 10th day of April, 1860, on the 8th day of May, 1860, as stated and set forth in said original bill; that they have enjoyed the said invention and improvements as secured by the last reissued letters patent, bearing date the 13th day of November, 1860, as last aforesaid, since the same were granted and issued as aforesaid, and would, exclusive of all other persons or person within the jurisdiction of the circuit court of the United States for the northern district of New York, have continued to enjoy the said right of making, constructing, using, and vending to others to use or be used, or to sell the said invention and improvements in the several States of the United States, but for the wrongful and unjust acts and conduct of the said defendants hereinafter set forth.

But now so it is, may it please your honors, that, as your orators are informed and believe to be true, and charge the truth to be, the said defendants, John N. Billings and Frederick R. Stow, combining and confederating together to injure and prejudice your orators in the full exercise and enjoyment of their said patented rights and privileges so secured to them exclusively in and by virtue of the letters patent reissued so as last aforesaid, and to defeat the same, and to hinder and prevent your orators from having and receiving the profits, emoluments, benefits, and advantages which they might and otherwise, but for the misconduct of the said defendants, and the committing of the grievances and injuries by the said defendants hereinafter set forth, would have made and received by the exercise of their said patented rights and privileges, and also otherwise to injure your orators after the reissuing of the said letters patent so as last aforesaid, and on divers days and times thereafter, and continuously therefrom hitherto, and

within the northern district of New York, and within the United States of America, the said defendants wrongfully, wilfully, and injuriously, and without the leave, license, consent, or agreement of your orators, or either of them, have used, worked, exercised, and vended to others to use and be used, and are now using, working, exercising, and vending to others to use and be used, the said invention and improvements so assigned and reissued to your orators aforesaid, and have sold and delivered, and still are selling and delivering, unto others to sell, to use, and to be used, coal stoves or burners, and the component parts thereof, which were and are intended to counterfeit, imitate, and resemble, and which do in fact and in truth counterfeit, imitate, and resemble, the said invention and improvements so belonging to your orators, and which contain, and which are constructed upon, and by means of, and in accordance to, and with the principle, fea-
76 tures, and plan thereof, and which are made according to and by means of the said invention and improvements, and in breach of and invasion upon the said letters patent so as last aforesaid reissued on the 13th day of November, 1860, and in breach of and infraction upon the sole and exclusive right and privilege granted therein and thereby to your orators.

And your orators further show unto your honors that by means of such using, working, exercising, and vending to others to sell, to use, and to be used, and putting in practice the said invention and improvements and the component parts thereof, and by selling and delivering to others to sell, to use, and be used the said coal stoves or burners, and the said component parts thereof, made in accordance thereto and therewith and containing the principle, features, and plan thereof, the said defendants have made, and still are making, great gains and profits.

And the said defendants, by means aforesaid and otherwise, have greatly injured, and still are greatly injuring, your orators, and have deprived, and still are depriving, your orators from making, obtaining, and receiving divers great gains and profits which your orators otherwise, and but for the said wrongful acts and conduct of the said defendants, would have made, obtained, and received.

And your orators further show unto your honors that, as your orators are informed and believe, and charge the fact and the truth to be, the said defendants, John N. Billings and Frederick R. Stow, after the reissuing of the said letters patent so as last aforesaid, and on divers days and times thereafter and continuously therefrom hitherto have been, and now and still are, largely and extensively engaged in using, working, exercising, vending, and putting in practice the invention and improvements, and in vending to others to sell, to use, and to be used said coal stoves or burners, and the component parts thereof, which were and are intended, as aforesaid, to counterfeit, imitate, and resemble the said patented invention and improvements so assigned and reissued as last aforesaid, and which are made and constructed in accordance to and with and containing the invention, features, plan, and improvements invented, patented, extended, or renewed, and assigned as stated and set forth in the said original bill and last reissued as set forth in this supplemental bill.

And that the said defendants have employed, and still do employ, a large number of agents, workmen, and servants in so as aforesaid using, working, exercising, vending, and putting in practice the said invention and improvements in coal stoves or burners and the component parts thereof; and that the said defendants have heretofore so as aforesaid sold and delivered the said coal stoves or burners and the said parts thereof to others to vend, to use, and to be used in accordance to and with and containing the principle, features, and plan of the said invention and improvements so as aforesaid pat-

ented to a very great number and amount, to wit, as your orators, according to the best of their knowledge, information, and belief, allege and aver the fact to be, to the number and amount of one hundred coal stoves or burners or thereabouts, to wit, at Troy, in the county of Rensselaer, and in said northern district of New York; that the profits upon the sale of each one of the said coal stoves or burners so as aforesaid sold and delivered by the said defendants was and is, when completed and ready for use, (or for the market,) about the sum of ($2 70) two dollars and seventy cents on an average of the same, as your orators aver, according to their knowledge, information, and belief; and your orators also aver and charge the fact and truth to be, the damages sustained by your orators by reason of the using, working, exercising, and vending to others to sell, to use, and to be used of each one of the said coal stoves or burners by the said defendants so as aforesaid sold and delivered, put, or caused to be put, into use, is the sum of ($2 70) two dollars and seventy cents, and the whole amount of the damages sustained by your orators by reason of the acts and conduct of the said defendants hereinbefore set forth, during the time herein last above mentioned and set forth, will exceed the sum of one thousand dollars, as your orators believe and allege the fact to be.

And your orators further show unto your honors that your orators have in a friendly manner applied unto the said defendants and in such manner requested them to desist and wholly and entirely cease and abstain from using, working, exercising, vending, or putting in practice the said invention and improvements in said coal stoves or burners, or any of the component parts thereof, so patented, extended, assigned, and last reissued to your orators as aforesaid, and from using, working, exercising, and vending to others to use, to sell, or to be used, any of the said coal stoves or burners, or any of the said parts thereof, intended in anywise to counterfeit, imitate, or resemble the said invention or improvements, or which contain or operate upon and by means of and in accordance to and with the principle and feature thereof, or which are made in accordance to or by means of the said invention and improvements in breach of and infraction upon the said last reissued letters patent, and the sole and exclusive right and privilege so granted thereby, and to account for and pay to your orators all such damages as have been sustained by your orators by reason of the wrongful acts and conduct of the said defendants hereinbefore complained of and set forth; but that the said defendants have altogether wholly and entirely failed, neglected, refused, and still neglect and refuse, to comply with such reasonable request of your orators, as in equity and good conscience they ought to have done.

Your orators therefore pray that the said defendants, John N. Billings and Frederick R. Stow, may be decreed to account for and pay to your orators all such gains and profits as have accrued or in anywise arisen to or been received by the said defendants or either of them, or which they have been or may be entitled to receive by reason of their using, vending, or putting in practice the said invention and improvements, or any coal stoves or burners, or any of the component parts thereof, made in accordance therewith, or which gains and profits your orators might or would have made received but for and by reason of the aforesaid wrongful acts and doings of the said defendants; and that the said defendants and each of them, their and each of their agents, servants, workmen, and each and every of all persons in anywise employed by the said defendants or either of them, may be restrained by the order and the injunction of this hon. court from directly or indirectly using, working, exercising, vending, or putting in practice, or in anywise using, working, exercising, and vending to others to sell, to use, or be used any coal stoves or burners or any other kind of stoves counterfeiting, imitat-

ing, or resembling the said invention, plan, features, and improvements, or any or either of the component parts thereof, or made in accordance to and with the invention, improvements, and component parts described in and by the said extended, assigned, and last reissued letters patent; and
77 that the said defendants may be decreed to pay the costs of this supplemental bill and all proceedings thereon hereafter, and that your orators may have such other and further relief as to this honorable court shall seem meet.

And your orators further pray that the said defendants, John N. Billings and Frederick R. Stow, may be required by a rule or order of this honorable court to answer this their supplemental bill.

May it please your honors to grant unto your orators the people's writ of injunction, issuing out of and from and under the seal of this honorable court, therein commanding and restraining the said defendants and each of them, their and each of their agents, workmen, servants, and each and every of all others persons in anywise employed by the said defendants or either them, as hereinbefore in that behalf prayed.

May it please your honors to grant unto your orators the writ of subpœna, issuing out of, from, and under the seal of this honorable court, directed to the said John N. Billings and to the said Frederick R. Stow, commanding them and each of them, by a certain day and under a certain penalty, to be and to appear before this honorable court, then and there to answer the premises and to stand to and abide by such order and decree as may be made against them.

To the end, therefore, that the said defendants may, if they can, show why your orators should not have the relief hereby prayed for, and may, upon their several and respective corporal oaths and according to best and utmost of their several and respective knowledge, remembrance, information, and belief, full, true, direct, and perfect answer make to such of the several interrogatories hereinafter numbered and set forth as by the note hereunder written they are respectively required to answer, that is to say:

1st. Whether the said defendants, or one and which of them, have not sold and delivered, or caused to be sold and delivered, unto others to vend, to use, and to be used, or are not selling and delivering, or causing to be sold and delivered, unto others to vend, to use, and be used, and how many, coal stoves or burners having exterior parts, consisting of a projecting plinth or base, radiating column, cornice or abacus E, cornice G, and of two cylinders arranged and combined "as a whole," the first, a fire-cylinder A, having four triangular radiating flues or columns arranged, connected, and combined with the same, one at each corner of the said projecting plinth or base, each forming a communication with an air-chamber, *a*, in said plinth or base, and with intermediate chambers, E and E′, in the said cornice or abacus. The second, a surmounting cylinder, A′, having four triangular radiating flues or columns arranged, connected, and combined with the same, one at each corner of the said cornice or abacus E, having also a chamber, H, and having a cornice, G, upon the top thereof, as shown in and by the drawings, and substantially as described and set forth in the printed specification, description, and claim thereof, and each hereto annexed, as hereinbefore stated.

2nd. Whether the said defendants, or one and which of them, have not sold and delivered, or caused to be sold and delivered, unto others to vend, to use, and to be used, or are not now selling and delivering, or causing to be sold and delivered, unto others to vend, to use, and to be used, and how many, coal stoves or burners having therein arranged and combined at or near and with the lower end of the fire-cylinder thereof and with the fire-grate thereof a shell substantially as described in the said printed specifica-

tion and claim of the last reissue of the aforesaid letters patent, hereto annexed as aforesaid.

3d. Whether the said defendants, or one and which of them, have not sold and delivered, or caused to be sold and delivered, unto others to vend, to use, and to be used, or are not now selling and delivering, or causing to be sold and delivered, unto others to vend, to use, and be used, and how many, coal stoves or burners having therein arranged and combined a conical ring, *i*, having therein a grate, *k*, with an intermediate chamber, E, substantially as described in the said printed specification and claim of the last reissue of the aforesaid letters patent, hereto annexed as aforesaid.

4th. Whether the said defendants, or one and which of them, have not sold and delivered, or caused to be sold and delivered, unto others to vend, to use, and be used, or are not now selling and delivering, or causing to be sold and delivered, unto others to vend, to use, and be used, and how many, coal stoves or burners having therein arranged and combined a conical ring, *i*, and the solid part thereof with a rear intermediate chamber, E′, substantially as described and set forth in the printed specification and claim of the last reissue of the aforesaid letters patent, hereto annexed as aforesaid.

5th. Whether the said defendants, or one and which of them, have not sold and delivered, or caused to be sold and delivered, unto others to vend, to use, and be used, or are not now selling and delivering, or causing to be sold and delivered, unto others to vend, to use, and be used, and how many, coal stoves or burners having therein arranged and combined an upper cylinder, A′, and flues or columns, B′, and a chamber, H, connected therewith with a cornice or abacus, E, or its equivalent, as and for the purposes described and set forth in the printed specification and claim of the last reissue of the aforesaid letters patent, hereto annexed as aforesaid.

6th. Whether the said defendants, or one and which of them, have not sold and delivered, or caused to be sold and delivered, unto others to vend, to use, and be used, or are not now selling and delivering, or causing to be sold and delivered, unto others to vend, to use, and be used, and how many, coal stoves or burners having therein arranged and combined a chamber, H, having therein a damper, *o*, and thereto attached an exit pipe, F, with a rear intermediate chamber, E′, substantially as and for the purpose described and set forth in the printed specification, description, and claim of the last reissue of the aforesaid letters patent, hereto annexed as aforesaid.

7th. Whether the said defendants, or one and which of them, have not sold and delivered, or caused to be sold and delivered, unto others to vend, to use, and be used, or are not now selling and delivering, or causing to be sold and delivered, unto others to vend, to use, and be used, and how many, coal stoves or burners having therein arranged and combined a shell, *x*, with an opening, *s*, or its equivalent, to diffuse and heat the air preparatory to its entrance under and into the fire to aid, facilitate, and promote the combustion of the fuel and to increase the volume or quantity of heat by means thereof, as described and set forth in the printed specification, description, and claim of the said last reissued letters patent, hereto annexed as aforesaid.

8th. Whether the said defendants, or one and which of them, have not sold and delivered, or caused to be sold and delivered, unto others to vend, to use, and be used, or are not now selling and delivering, or causing to be sold and delivered, unto others to vend, to use, and be used, and how
78 many, coal stoves or burners having therein arranged and combined a cornice, G, with flues or columns, B′, and with a cylinder, A′, substantially as described and set forth in the printed specification, description,

and claim of the last reissue of the aforesaid letters patent, hereto annexed as aforesaid.

9th. Whether the said coal stoves or burners, or one or mor eof them, as aforesaid, and sold and delivered by the said defendants, or either of them, or caused to be sold and delivered by them or either of them, and which of them, as aforesaid, and not in substance so made and constructed as to counterfeit, resemble, and imitate, or intended to counterfeit, imitate, and resemble, a coal stove or burner, having therein arranged and combined as a whole the exterior parts thereof, consisting of a projecting plinth or base, radiating flues or columns, cornice or abacus—between two cylinders, the lower one a fire-cylinder, the upper one a surmounting cylinder, of a cornice upon the top of the said surmounting cylinder—and of two cylinders. The first, a fire-cylinder, having four triangular radiating flues or columns arranged, connected, and combined with the same, one at each corner of the said projecting plinth or base, each forming a communication with an air-chamber in the said plinth or base, and with intermediate chambers in the front or rear of the aforesaid cornice or abacus, and also having a chamber combined with the said rear intermediate chamber in the rear part of the said cornice or abacus, which chamber contains an opening for an exit pipe to conduct away smoke, &c., and containing also a damper between the said chamber and the said surmounting cylinder, for the purpose of regulating and controlling the draft, and having also a cornice upon the top of the said surmounting cylinder, substantially as described and set forth in the said last reissued letters patent, a printed copy of which, and of the specification, description, and claim thereof, is hereto annexed, as hereinbefore stated and set forth.

10th. Whether the said coal stoves or burners, or one or more of them, made and constructed as aforesaid, and sold and delivered by the said defendants or either of them, or caused to be sold and delivered by them or either of them, and which of them, as aforesaid, are not in substance so made and constructed as to counterfeit, resemble, and imitate a coal stove or burner, having therein arranged and combined a shell at, or near, and with the lower end of a fire-cylinder, and with a fire-grate; and having therein arranged and combined a conical ring, with a grate in the same, with an intermediate chamber, E; and having therein arranged and combined a conical ring, and the solid part, or its equivalent thereof, with an intermediate chamber, E′; and having therein arranged and combined an upper cylinder, (denominated a surmounting cylinder,) and flues or columns, and a chamber connected therewith, which chamber is between the flues or columns, and in the rear or back part of said surmounting cylinder, and denominated the chamber H, with a cornice or abacus, or its equivalent, which cornice or abacus is between the said surmounting cylinder and a fire-cylinder below; and having therein arranged and combined a chamber containing a damper and an opening for an exit pipe, with a rear intermediate chamber, denominated in the drawings hereto annexed E′, or its equivalent; and having therein arranged and combined a shell, with an opening, or its equivalent, to diffuse and heat the air preparatory to its entrance under and into the fire, to aid, facilitate, and promote the combustion of the fuel, and to increase the volume or quantity of heat by means thereof; and having therein arranged and combined a cornice upon the top of a surmounting cylinder, having flues or columns connected therewith, with said cylinder and with said flues, substantially as and for the purpose described and set forth in the printed specification, description, and claims of the last reissue of the aforesaid letters patent, hereto annexed, as hereinbefore stated and set forth.

11. How many coal stoves or burners, so in substance made and constructed, have the said defendants, or either of them, and which of them,

have sold, vended to others to vend or use, or otherwise disposed of, and to whom and when, and where are the same; and have the same been, or are they now, in use; and how many such coal stoves or burners now remain unsold and undisposed of, or otherwise, within and under the control and disposition of the said defendants, or either or which of them.

12th. How many coal stoves or burners, so in substance made and constructed, have the said defendants, or either and which of them, so sold and delivered, or cause to be sold and delivered, containing the said invention and improvements herein described, and described and set forth in the printed copy of the specification, description, and claims of the last reissue of the said letters patent, hereto annexed, as hereinbefore stated and set forth.

The said defendants, and each of them, are required to answer the several interrogatories numbered, respectively, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12.

CHARLES EDDY.
JACOB SHAVOR.

MARCUS P. NORTON, *Solicitor for Complainants, Troy, N. Y.*
W. A. BEACH, *of Counsel for Complainants, Troy, N. Y,*

NORTHERN DISTRICT OF NEW YORK, *County of Rensselaer, City of Troy, ss:*

On this 3 day of January, 1861, before me, the subscriber, personally came Charles Eddy and Jacob Shavor, and each for himself made oath, according to law, that they have read the foregoing supplemental bill subscribed by each of them respectively, and know the contents thereof, and that the same is true of their own knowledge, except as to those matters therein stated on information and belief, and that as to those matters they, and each of them for himself, believes it to be true.

MILES BEACH,
United States Commissioner, Northern District of New York, Troy, N. Y.

80 *Reissue No.* 1,078.

The United States of America to all to whom these letters patent shall come:

Whereas Charles Eddy and Jacob Shavor, of Troy, New York, assignees, through mesne assignments of Henry Stanley, of Troy aforesaid, have alleged that said Henry Stanley did invent a new and useful improvement in coal-stove, (for which letters patent were issued to said Stanley, dated January 4th, 1845; the same extended for seven years from and after January 4th, 1859; the same surrendered by said assignees, and new letters issued to them, dated April 10th, 1860; and these again surrendered, and new letters issued to them, dated May 8th, 1860, which last letters, having been surrendered by them, the same have been cancelled, and new letters ordered to issue to them on a third amended specification,) which he stated had not been known or used before his application; had made oath that he was a citizen of the United States; that he did verily believe that he was the original and first inventor or discoverer of the said improvement, and that the same had not, to the best of his knowledge and belief, been previously known or used; said assignees having paid into the treasury of the United States the sum of fifteen dollars, and presented a petition to the Commissioner of Patents, signifying a desire of obtaining an exclusive property in the said improvement, and praying that a patent may be granted for that purpose:

These are, therefore, to grant, according to law, to the said Charles Eddy and Jacob Shavor, their heirs, administrators, or assigns, for the term of twenty-one years from the fourth day of January, one thousand eight hundred and forty-five, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, a de-

scription whereof is given in the words of the said Charles Eddy and Jacob Shavor in the schedule hereunto annexed, and is made a part of these presents.

In testimony whereof, I have caused these letters to be made patent, and the seal of the Patent Office has been hereunto affixed.

Given under my hand, at the city of Washington, this thirteenth day of November, in the year of our Lord one thousand eight hundred and sixty, and of the independence of the United States of America the eighty-fifth.

JACOB THOMPSON, *Secretary of the Interior.*

Countersigned and sealed with the seal of the Patent Office.

[L. S.] PHILIP F. THOMAS, *Commissioner of Patents.*

82 *Reissue No.* 1,078.

The schedule referred to in these letters patent and making part of the same.

To all whom it may concern:

Be it known that Henry Stanley, of West Poultney, county of Rutland and State of Vermont, but now of the city of Troy, county of Rensselaer, State of New York, did, on the 4th day of January, A. D. 1845, obtain of and from the United States of America certain letters patent for and upon new and useful improvements in a stove, or apparatus for heating apartments, and denominated therein Stanley's Coal-Burner, and bearing the title of improvement in coal-stoves, which was duly extended, in conformity to law, on or before the 4th day of January, 1859, for a term of seven years from and after the said 4th day of January, 1859, and which renewed or extended letters patent were duly assigned to Charles Eddy and Jacob Shavor each of the city of Troy, county of Rensselaer and State of New York, (and each of the firm of Charles Eddy & Co., of said city, &c.,) by John Stanley, sole assignee of Henry Stanley aforesaid; and which renewed or extended letters patent were duly reissued to the said Charles Eddy and Jacob Shavor on the 10th day of April, 1860, wherein and whereby the said Charles Eddy and Jacob Shavor became patentees under and by virtue of the aforesaid assignments, by which assignments they became and are the true and lawful owners and holders of the entire invention, improvements, and letters patent as renewed, revived, and extended for the aforesaid term of seven years; and which renewed, revived, and extended letters patent reissued, as aforesaid, on the 10th day of April, 1860, were again and for the second time reissued, on a second corrected and amended specification, on the 8th day of May, 1860.

We, therefore, the undersigned patentees and assignees, do hereby declare that the following is a full and exact description of the said improvements and invention, reference being had to the accompanying drawings and to letters of reference marked thereon, making a part of this specification, in which—

Fig. 1 is a front elevation of the coal-burner, showing the construction, arrangement, and combination of the various parts of the front and other parts of the burner hereinafter named.

Fig. 2 is a vertical section through the center of the coal-burner, from front to the rear or back part thereof, and showing internal and external parts of the burner, hereinafter described.

Fig. 3 is a horizontal section through the fire-chamber, showing the cylinder or chamber of combustion, flues or columns combined therewith, as hereinafter described.

Fig. 4 is a horizontal section, showing the fire-grate, fire-brick, fire-chamber, and the lower flues or columns connected therewith, and with the plinth or base projecting outward, as hereinafter described.

Fig. 5 is a horizontal section through the said plinth or base, showing the ash-pit and drawer or ash-pan D; also, the air-chamber *a*, partition *g*, and the flue or column space *c'*, standing upon that part or portion of the said plinth or base projecting outward from the chamber of combustion, whereby the four flues B, Fig. 3, are combined with the said air-chamber *a*, all of which are hereinafter described.

Fig. 6 is a horizontal section showing the conical ring *i*, and the grate *k*, therein at the top of the fire-chamber A, the intermediate chambers E and E', hereinafter described, the communication therewith of the flue openings *c''*, the partition or division plates *j j*, hereinafter described. This view of this section is taken from below, looking upward into the upper section, having said upper flue openings *c''* of the flues or columns B', Fig. 7.

Fig. 7 shows the upper cylinder A', flues or columns B', and the chamber H, also exit pipe F, hereinafter described.

The improvements consist in the arrangement and combination of the several internal and external parts hereinafter described and set forth—

1st, of the combination of the external parts as a whole; and, 2d, of the sub-combinations of the external parts, also of the internal parts, consisting, 1st, of a chamber of combustion, and four triangular radiating flues connected therewith, and resting upon and combined with the said projecting plinth or base as hereinafter described. 2d, of a cornice or abacus resting upon and combined with the top of said chamber of combustion, and said flues connected with the fire-cylinder or chamber of combustion, and hereinafter described. 3d, of the said plinth or base projecting outward from the said fire cylinder or chamber of combustion, so as to receive the said flues or columns, give space for ash-pit and air-chamber *a*, and to increase the radiating surface at or near the floor, while the chamber of combustion, the triangular radiating flues or columns are combined with said outward projecting plinth or base, as hereinafter described. 4th, of the arrangement and combination of the shell *x*, at or near the bottom of the said chamber of combustion, with the said chamber, and fire-grate, as hereinafter described. 5th, of an annular intermediate chamber formed, in the said cornice or abacus by means of the conical ring *i* and the grate *k* therein, or the equivalent of either. 6th, of the arrangement and combination of the rear intermediate chamber E', formed in said cornice or abacus by means of the solid side of said conical ring *i*, or its equivalent. 7th, of an upper section, story, or surmounting chamber A', having therewith arranged and combined four triangular radiating flues or columns, and the cornice G, as hereinafter described, which section or surmounting chamber and the said flues or columns thereto connected rest upon the top of, and are combined with, the said cornice or abacus of the said lower section or story, as will more fully appear hereinafter. 8th, of the arrangement and combination of the chamber H, in the rear of the said upper section or surmounting chamber A', and its combination with the said rear intermediate chamber E', as hereinafter described and set forth. 9th, of the arrangement and combination of the said shell *x*, with the draft port or opening *s*, or its equivalent, as hereinafter described, by means of which the heat is more perfectly radiated and the fuel better economized than has been heretofore effected; the construction, arrangement, combination, and sub-combinations being different from all other coal stoves or burners, and cheap, durable, compact, and ornamental.

The exterior of the said coal-burner is composed of a square base or plinth, elevated and resting upon four legs. This plinth or base projects outward from the said fire-cylinder or chamber of combustion A, so that space may be had and room given for the four triangular radiating flues or columns B, at or near each corner of the said plinth or base, and at the same

time be connected with the said fire-cylinder and air-chamber *a a*, while an ash-pit is formed therein for the ash-pan or drawer D, Fig. 5. The said air-chamber is formed by means of continuing downward to the bottom plate of the said plinth or base the outward and iron plate of the said cylinder of said chamber of combustion A, Fig. 1, and seen at *g*, Fig. 2 and Fig. 5,
83 or this partition or division plate between the ash-pit and said air-chamber may be made separate from the said cylinder plate; the said air-chamber *a* extends around three sides of the said ash-pit *f f*, Fig. 5, and has communication with the said flues or columns B by means of the openings *c'*, Fig. 5. The combustion cylinder or chamber A and the four triangular radiating flues or columns B, connected with said cylinder as herein described, are each combined with this plinth or base and with the air-chamber *a* therein.

On this plinth or base rests the chamber of combustion and the fire-cylinder A, Figs. 1 and 3, also the four triangular radiating flues or columns B, connected and combined with said cylinder of said chamber of combustion, and standing one on each corner of the said plinth or base, opening there into the said air-chamber in the said plinth or base as aforesaid. This chamber of combustion, its cylinder A, and the four radiating flues or columns aforesaid are surrounded and surmounted by a square cornice or abacus, upon the top of which is placed a cylinder or chamber, smaller than the one below, which forms the chamber of combustion, and which upper cylinder or chamber forms an upper section or story, capped with a cornice of proportionate dimensions with the one below upon the lower and first section or story. There are also four triangular radiating flues or columns arranged and connected with this cylinder or chamber in the same manner as are the flues or columns B with the cylinder or chamber of the first story or section below. The upper flues or columns B', Figs. 1, 2, and 7, are each smaller than those of the lower section or story, and of proportionate dimensions. These flues or columns are arranged and combined with the said upper cylinder or chamber A', as seen at *c'*, Fig. 7. Upon this cylinder or chamber and flues or columns thus arranged is placed and combined therewith the cornice G, Figs. 1 and 2. Upon the top plate of this cornice there is an urn of proportionate dimensions. The four upper flues or columns B', Figs. 1, 2, and 7, are arranged upon and combined with the said square cornice or abacus E, one at each corner thereof, thus making the said cornice or abacus immediately between the said lower and upper sections or stories, and between the said upper and lower triangular radiating flues or columns, arranged and combined as herein described.

The said columns or flues are each and every of them triangular, as shown in the drawings, at different figures, or they may be of any other form, and still carry out the same arrangement and combinations thereof as herein stated. The exterior surface of each of the triangular flues or columns may be somewhat more convexed than as shown in the drawings, which will give more radiating surface without interfering with the radiating surface of the said fire-cylinder A, but uniting therewith forms a perfect radiation. The cornice or abacus E projects outward from the cylinder A, so as to receive the said four triangular flues or columns B, and thereby allow a combination of the same therewith, as hereinbefore and hereinafter stated. By this arrangement and combination of the said several parts, forming a stove or burner for coal, as shown in the drawings, a radiator of greatly extended surface and of compact form is completed, in which the surface of radiation do not interfere or counteract each other. The details of the interior of the said stove or coal burner are as follows, to wit: The center portion of the said plinth or base has an ash-pit in it, into which the ash-pan D slides from the front of the said plinth or base, and directly under the said cham-

ber of combustion and the fire-grate *d*. This ash-pit is separated from the air-chamber *a*, Fig. 5, which surrounds three sides of it, as seen at same fig. The division or partition plate *g*, which separates the ash-pit from the said air-chamber *a*, is formed by the projection of the cylinder of the chamber of combustion A, through the top plate, and downward to the bottom of the said plinth or base, as shown at *g*, same fig., or the said division or partition plate *g* may be made separate from the cylinder and connected with the top plate of the said plinth or base, upon which plate may then rest the said cylinder or chamber of combustion; and the said partition or division plate, if made separate and of itself, may be directly connected to, and with the bottom of the said cylinder of the said chamber of combustion. The said fire-cylinder A, which forms the outward part of the chamber of combustion, is lined with fire-proof brick from the top of the shell *x*, Fig. 2, to the said cornice or abacus E, as seen at *e*, Figs. 2, 3, and 4. The flues B are connected to and with the fire-cylinder A, and with each corner of the said plinth or base, and are of the same height of the said cylinder A, and rest upon and are combined with that part of the said plinth or base projecting outward from said fire-cylinder as aforesaid. Upon the top of the said cylinder, flues, or columns there is a plate or iron, *b*, Figs. 1, 2, and 4. This plate has openings at each corner, as seen at *c*, Fig. 4, which receive the flues or columns B, and which correspond to and with the said flue openings in the top plate of the said plinth or base, on which rests the said first section or story, and seen at *c'*, Fig. 5. This plate forms the lower part of the said cornice or abacus E, upon which plate rises the frieze or outer plate of the said cornice or abacus E, to receive the top thereof, *h*, Figs. 1, 2, and 6, which plate forms the upper part of the said cornice or abacus, and upon which rests the upper cylinder, flues, and chamber H, which form the said upper section or story, Figs. 1 and 2. The said cornice or abacus E, projecting out and from the outside part of the said fire-cylinder A, allows the intermediate chambers to be formed, projecting outward from the top of the said fire cylinder into the said cornice or abacus. The said flues or columns B' are each connected with the said top plate of the said cornice or abacus, at each corner thereof, and are each of the same height of the said cylinder A', and are each connected and combined with the said cylinder A', as seen at Figs. 1, 2, and 7. Upon the top of the said cylinder and flues is placed, and combined therewith, the cornice G, surmounted by an urn, seen at same fig.

At the top of the said cylinder A, Fig. 2 and Fig. 1, there is a cone-shaped ring, *i*, more clearly seen at Fig. 6, the base of which is of the diameter of the lower and fire cylinder A. It is contracted at the top, so as to correspond and conform to the size of the smaller and upper cylinder A'. The width of the said cone-shaped ring is equal to the depth of the said cornice or abacus E, on any desired angle, by means of which is formed an annular chamber at the top of the chamber of combustion, and in the said cornice or abacus E; when this air-chamber is thus formed, by means of the said cone-shaped ring *i*, or its equivalent, it is then denominated an intermediate chamber, because being between the said upper and lower cylinders, and in the said cornice or abacus. The front part or portion of the cone-shaped ring *i* is pierced with any desired number of oblong apertures, whereby is formed the grating *k*, Figs. 2 and 6, which grating may extend over and upon more or less of its circumference, thus forming a communication bet een the said intermediate chamber in the cornice or abacus E and the upper part of the said chamber of combustion. The said cone-shaped ring *i* may be perforated with holes of any required size or form, and thus and thereby form a communication from the said combustion chamber into the said intermediate chamber. The said conical ring may be otherwise constructed to answer

and accomplish the same purpose as herein described, all of which are its equivalents.

84 The said intermediate annular chamber is divided into two parts by means of the partitions seen at *j j*, Figs. 2 and 6. By this division two intermediate chambers are formed. The 1st is a front one, and seen at E, Figs. 2 and 6. The 2d and most important one is in the rear or back part of the burner, and is seen at E′, Figs. 2 and 6. The front chamber communicates with the chamber of combustion by means of the said grate-opening *k* in the cone-shaped ring or its equivalent, while the back or rear part of said ring is solid, thus preventing any direct communication with said chamber of combustion. The solid part of said conical ring *i* is seen at Figs. 2 and 6, back of the said partition *j*. These partition plates *j j* may be placed upon any angle, at any point, if desired.

The two back or rear flues seen with their respective openings at *c′*, Fig. 5, open into the said rear intermediate chamber E′, thus forming an air-passage from and with the air-chamber *a* in the said plinth or base, as seen at *c′*, Fig. 5. The front flues B of the lower section, as aforesaid, open into the front intermediate chamber E, or front part or portion of said cornice or abacus, thus forming an air-passage from and over the top of the fire-cylinder or chamber of combustion, down and through the said front flues into the said air-chamber *a* in the said plinth or base.

The conical ring *i* accomplishes three very important purposes at least, the first of which is the formation of the said intermediate chamber in the said cornice or abacus as aforesaid, when used as an annular chamber, also the formation of the rear intermediate chamber E′ in connection with the division or partition plates *j j* as aforesaid, thus making the entire division of this chamber solid, so that when the damper *o*, Fig. 2, is closed, the draft will be changed from a direct to a circuitous, and from the combustion chamber into the chamber in the front part of the said cornice or abacus, thence down and through the said front flues, and into the air-chamber *a* in the said plinth or base, up the back flues into the rear or back intermediate chamber E′, so made by the said conical ring and the plates *j j*, or any equivalent whereby the air is drawn from the room in which the coal-burner is used into and through the opening *s* in front, or its equivalent, upon and against the shell *x*, thus highly heating it before it passes under and into the fire to aid and facilitate combustion; thence through the fire and from and above the same in the said combustion chamber, through the opening or openings in the said conical ring *i*, into the said front intermediate chamber, or into the front part of said cornice or abacus in case the front part or portion of the cone-shaped ring and the grate *k* therein be omitted; thence in a highly heated state down the front flues into the air-chamber *a* in the said plinth or base; thence into and up the rear flues into the rear intermediate chamber E′, thence into the upper rear flues B′, also into the chamber H immediately in the rear of the upper cylinder A′, and between the rear or back flues or columns B′, connected and combined with said cylinder, and hereinafter described. The second office of this conical ring *i* is to protect the front flues B from any entrance of coal or ashes therein by means of the grate *k* in the front part thereof, and to give the same protection to the rear flues B, by means of the solid part of the said conical ring, otherwise said flues would become somewhat clogged; and third, the outer surface of said cornice or abacus is shielded from direct action of the heat arising from, and by reason of the coal or fire in the said chamber of combustion, whereby rapid and undue destruction of the iron and the injurious effect upon the external atmosphere caused by the too highly heated iron is prevented. It may also be used for any other purpose desired.

In the front of the cylinder A, and at or near the bottom thereof, there is a

draft port or opening, *s*, which may extend up to the top part of the aforesaid fire-grate *d*, Fig. 4, as well as a little above or below the same as the case may require, which grate is surrounded by the said shell or ring *x*, seen at Fig. 2, which shell descends downward to and below the said draft port or opening *s* to any required or desired distance. The air enters this draft port or opening *s*, impinges upon and against the said shell *x* and its downward projection, around which it circulates, becomes highly heated by virtue thereof, and while in a diffused state or condition descends down upon and under the said shell *x* at all points thereof, and around the said fire-grate, and thence rises to supply heated air to the fire for the purpose of aiding, facilitating, and promoting the combustion, and to increase the volume or quantity of heat from a small amount of fuel. By this arrangement there is a space between the said shell *x* and the outer plate of the stove, in which the air is heated, as hereinbefore stated, preparatory to its entrance under the fire, all of which form a combination for the purpose above stated.

The cylinder A′, which is open to and into the lower cylinder A through the said cornice or abacus, has openings surrounding the front portion of its top, which communicate with the chamber in the cornice G, seen at *l*, Fig. 2. This cornice chamber is divided into two parts or chambers by means of partition plates *m*, Fig. 2, and on each side of said cornice G this forms a front chamber, G, and a back or rear chamber, G′, Fig. 2. The front flues B′, connected with the said upper cylinder A′, open into the said front chamber at their respective upper ends, while the lower ends thereof open into the front intermediate chamber E, same fig. The purpose of this arrangement is two-fold: First, by means thereof the radiating surfaces are materially and effectually extended; and second, the deleterious gases rising from the fire below in the chamber of combustion into the said surmounting chamber or cylinder A′ are conducted and drawn off through the said openings *l*, Fig. 2, into the front cornice chamber, G, down the said front flues, B′, into the said front intermediate chamber in the said cornice or abacus hereinbefore described, and thence and thereafter follow the main current or draft through the said front flues B, thence into the air-chamber *a* in the said plinth or base, thence into and up the back or rear flues B into the said rear intermediate chamber E′, thence into the said chamber H, thence into the exit pipe F, Fig. 2, and thus are prevented from entering into the apartment. If an apparatus for consuming or burning the said gases be constructed in any part of the said conical ring *i*, forming the rear intermediate chamber E′, Figs. 2 and 6, then the lower end of the said upper front flues B′ may be closed up, in which case the inside of said flues must be left open into the said cylinder A′, so as to keep up the radiating surface thereof. Of course, then the openings *l*, Fig. 2, might be omitted, there being no use for them. This, however, does not change or in anywise disturb the draft or current of circulation aforesaid described.

In the front of the cylinder or chamber A′ there is a door, through which fuel is supplied to the fire in the chamber of combustion in the cylinder below, and in this door, as well as in the two sides of the said cylinder, there is an open-worked panel, into which mica is inserted to show the fire or light therefrom. In the rear of the top plate *h*, Fig. 1 and Fig. 6, there is an opening, *n n*, as seen at said Fig. 6, which is made of any required or desired size. This opening forms a communication from the rear intermediate chamber E′ into the lower part of the chamber H, Figs. 2 and 7. This is for the purpose of insuring a more perfect draft, as hereinbefore described.

85 The said chamber H is formed in the rear of the said cylinder A′, and between the two rear flues of columns B′ of the said surmounting chamber or upper section. This chamber H extends upward to the said rear chamber G′ in the said cornice, or it may extend no higher than the top of

said exit pipe F, for then the effect and operation would be the same. The draft would be changed and controlled in the same manner. The effect produced would be the same. The opening or collar F is for the attachment to said chamber H of a smoke or exit pipe as used in ordinary stoves. An opening is made from the said cylinder A′ directly into the said chamber H, thereby forming a direct draft from the said chamber of combustion into the said surmounting chamber or cylinder A′, thence through said opening into said chamber H, thence into the said exit pipe, which is used to facilitate the kindling of fires, to hasten the progress of combustion, or for any other purpose desired. To the said opening into said chamber H there is attached a damper, *o*, Fig. 2, which opens into the said chamber H, by means of which the current or draft is changed from a direct to a circuitous one, and vice versa, and of course regulates the same. This damper is moved or operated by means of the stem P, which projects through the back of the said chamber H.

When the said damper *o* is closed into or against the said opening between the said chamber H and the said cylinder A′, then the draft is changed from the direct, and its course then is circuitous, commencing from the front and top part of the said chamber of combustion, forward into the said cornice or abacus; thence downward, through the front flues B B, into the said air-chamber *a* in the said plinth or base, back and along the sides of the said chamber; thence upward and through the back flues B B into the said rear intermediate chamber E′; thence into the said chamber H, through the said opening *n n*, Fig. 6; when this damper is thus closed, a large surface of radiation is put into successful operation by means of the arrangement and combinations of the said several parts as hereinbefore described and set forth. When the said damper *o* is open, then the said circuitous draft is checked, and the direct draft operates as hereinbefore described; then not as much heat is radiated. The gases in the said upper cylinder A′, if any should there rise, will be drawn away and down by the said current below as hereinbefore described; none, however, will rise therein if consumed or burned by the burner in the said conical ring *i*. By this form, arrangement, combination, and combinations of the said several parts as herein described a perfect and reliable coal-burner is completed, which is durable and economical, as well as cheap.

Having thus described the original invention, improvements, combination, and sub-combinations thereof, as originally made by the said Henry Stanley in the said coal stoves or burners, what we claim as his original invention and improvements in coal-stoves or burners is:

The manner in which he arranged and combined as a whole the exterior parts, consisting of a projecting plinth or base, radiating columns, cornice or abacus E, cornice G, and of two cylinders. The first, a fire-cylinder A, having four triangular radiating flues or columns, arranged, connected, and combined with the same, one at each corner of the said projecting plinth or base, each forming a communication with the air-chamber *a* in said plinth or base, and with the said intermediate chambers E and E′ in the said cornice or abacus. The second, a surmounting cylinder A′, having four triangular radiating flues or columns arranged, connected, and combined with the same, one at each corner of the said cornice or abacus E, having also the chamber H, and having the cornice G upon the top thereof, substantially as herein described and set forth.

We also claim the arrangement and combination of the said shell *x* at or near and with the lower end of the said fire-cylinder A, and with the fire-grate *d*, substantially as herein described and set forth.

We also claim the arrangement and combination of the conical ring *i*,

having therein the grate *k*, with the intermediate chamber E, substantially as herein described and set forth.

We also claim the arrangement and combination of the conical ring *i* and the solid part thereof with the rear intermediate chamber E′, substantially as herein described and set forth.

We also claim the arrangement and combination of the upper cylinder A′, and the flues or columns B′ and the chamber H connected therewith, with the cornice or abacus E or its equivalent, as and for the purposes herein described and set forth.

We also claim the arrangement and combination of the chamber H, having therein the damper *o*, and thereto attached the exit pipe F, with the rear intermediate chamber E′, substantially as and for the purpose herein described and set forth.

We also claim the arrangement and combination of the said shell *x* with the opening *s* or its equivalent, to diffuse and heat the air preparatory to its entrance under and into the fire to aid, facilitate, and promote the combustion of the fuel, and to increase the volume or quantity of heat by means thereof, as herein described and set forth.

We also claim the arrangement and combination of the cornice G, with the flues or columns B′, and with the cylinder A′, substantially as herein described and set forth.

In testimony whereof, we have, on this 5th day of November, 1860, hereunto set our hands.

CHARLES EDDY.
JACOB SHAVOR.

Witnesses: MARCUS P. NORTON.
A. C. CORSE.

[Here follows diagram, page 85.]

86 U. S. circuit court, northern dist. of N. Y.

CHARLES EDDY AND JACOB SHAVOR
vs.
JOHN N. BILLINGS AND FREDERICK R. STOW.

The joint and several answers of John N. Billings and Frederick R. Stow, defendants, to the supplemental bill of complaint of Charles Eddy and Jacob Shavor, complainants.

These defendants, reserving to themselves all right of exception to the said supplemental bill of complaint, for answer thereto, say that they admit the filing of the original bill of complaint in this cause, and contents thereof, and that a writ of subpœna issued thereon, and that a motion for a preliminary injunction was made and decided, as is alleged in the said supplemental bill. That they admit that the said letters patent, described in said original bill as the then last reissued letters patent, were surrendered and cancelled on or about the 7th day of November, 1860; which surrender and cancellation of the said letters patent so alleged by the said complainants, these defendants claim and insist upon as a defence to the further prosecution and maintainance of this cause, upon the said original bill of complaint.

87 And these defendants, further answering, say that in and by the specification or written description attached to the letters patent issued, as aforesaid, to the said Henry Stanley on the 4th day of January, 1845, the said Stanley set forth a certain combination or arrangement of the parts of said stove as a whole as his invention, and to which alone he limited his claim as the inventor thereof, as will appear by reference to the said speci-

fication or a certified copy thereof, ready to be produced by these defendants as the court shall direct. And they say that in and by the specification attached to the aforesaid reissued patent of November 13th, 1860, mentioned in the said supplemental bill of complaint, the said complainants claim as the invention of the said Henry Stanley other and different combinations from the one so claimed and described in the said original specification; which other and different combinations were not the invention of said Henry Stanley, and by reason of said claim so made in said last reissued patent the same is void and of no effect in law.

And these defendants, further answering, deny that the alleged exclusive right and privilege claimed by the complainants is worth the sum of fifty thousand dollars or any like sum, or that the said complainants have
88 enjoyed the said invention and improvements since the said last reissue of said letters patent, on the said 13th day of November, 1860, or would have continued to enjoy the same, in the northern district of New York, but for the acts and conduct alleged against these defendants in said supplemental bill.

And these defendants, further answering, deny that since the said last reissue of said letters patent they have used, worked, exercised, or rendered to others to use and be used, or are now using, working, exercising, or vending to others to use or be used, the said pretended invention or improvements, or have sold or delivered, or are now selling or delivering, unto others to sell, to use or be used, coal stoves or burners, or the component parts thereof, which were or are intended to counterfeit, imitate, or resemble, or which do in fact counterfeit, imitate, or resemble, the said pretended invention and improvements claimed by the complainants, or which contain or are constructed upon or by means of or in accordance to or with the principle, plan, or features thereof, or made according to or by means of said invention and improvements, or that by means of using, working, exercising, or vending to others to sell, use, or be used, the said pretended invention and improvements, or the component parts thereof, they have made or are making great gains or profits, or are depriving the complainants from making
89 great gains or profits.

And these defendants, further answering, deny that they have employed or do employ a large or any number of agents, workmen, or servants in using, working, exercising, vending, and putting in practice the said pretended invention and improvements in coal-stoves, or the component parts thereof, or that they have sold or delivered the same to others to vend, use, or be used in accordance to or containing the principle or plan of said patented improvements, to the number of one hundred or any other number, or that the said complainants have sustained any damages by reason of the acts or conduct of the defendants.

And these defendants, further answering the said supplemental bill, in answer to the special interrogatory therein contained, say:

First. They say that they have not, nor has either of them, sold or caused to be sold or delivered unto others to vend, use, or be used, nor are they, nor is either of them, selling or causing to be sold or delivered unto others to vend, use, or be used, any coal stoves or burners, such as are described in said first special interrogatory.

Second. They say that they have not, nor has either of them, sold or delivered, or caused to be, nor are they or either of them now selling or
90 causing to be sold or delivered unto others to vend, use, or be used, any coal stoves or burners having the arrangement or combination described in said second interrogatory.

Third. They have not, nor has either of them, sold or delivered, or caused to be sold or delivered, and are not now selling and delivering, or causing

to be sold or delivered, coal stoves or burners having the arrangement or combination set forth in said third interrogatory.

Fourth. They have not, nor has either of them, sold or delivered, or caused to be, nor are they or either of them now selling or causing to be sold or delivered to others to vend, use, or be used, coal stoves or burners having the arrangement and combination described in said fourth interrogatory.

Fifth. They have not, nor has either of them, sold or delivered, or caused to be sold or delivered, and are not selling or causing to be sold and delivered, unto others to use, vend, or be used, coal stoves or burners having the arrangement or combination mentioned in said fifth interrogatory.

Sixth. They have not, nor has either of them, sold or delivered, or caused to be sold or delivered to others to vend, use, and are not now selling, or causing to be sold unto others to vend, use, or be used, coal stoves or burners having the arrangements or combination described in said
91 sixth interrogatory.

Seventh. They have not, nor has either of them, sold or delivered, or caused to be, nor are they or either of them selling or causing to be sold or delivered to others to vend, use, or be used, coal stoves or burners having the arrangement or combination set forth in said seventh interrogatory.

Eighth. They have not, nor has either of them, sold or delivered, or caused to be, nor are they or either of them selling or causing to be, sold or delivered to others to vend, use, or be used, coal stoves or burners having the arrangement or combination mentioned in said eighth interrogatory.

Ninth. They have not, nor has either of them, sold or delivered, or caused to be sold or delivered, any coal stoves or burners in substance made and constructed as set forth in said ninth interrogatory.

Tenth. They have not, nor has either of them, sold or delivered, or caused to be sold or delivered, any coal stoves or burners in substance made and constructed as mentioned in said tenth interrogatory.

Eleventh. They have not, nor has either of them, sold any coal stoves or burners so in substance made or constructed.

92 Twelfth. They have not, nor has either of them, sold or delivered any coal stoves or burners so in substance made or constructed.

And these defendants, further answering, deny any and all manner of unlawful combination and confederacy wherewith they are by the said supplemental bill charged, and without this, that there is any other matter, cause, or thing in the complainants' supplemental bill of complaint contained, material or necessary for these defendants to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed, avoided, or denied, is true to the knowledge or belief of these defendants. All which matters and things these defendants are ready and willing to aver, maintain, and proove as this court shall direct. And they pray to be hence dismissed, with their reasonable costs and charges.

JOHN N. BILLINGS.
FRED'K R. STOW.

PETER STARR, *Sol. for Def'ts.*
H. M. RUGGLES, *of Counsel.*

NORTHERN DISTRICT OF NEW YORK, *County of Rensselaer, ss:*

93 On this 26th day of February, 1861, before me came John N. Billings and Frederick R. Stow, and made oath, severally and each for himself, that he had read the foregoing answer and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated upon information and belief, and as to those matters he believes it to be true.

JOHN N. BILLINGS.
FRED'K R. STOW.

Subscribed and sworn to before me this 26th day of February, 1861, at the city of Troy, N. Y.

MILES BEACH,
U. S. Commissioner, Northern Dist. of New York.

I certify the preceeding to be a true copy of an answer filed in this office on the 2d day of March, A. D. 1861.

Witness my hand and the seal of said circuit court, at my office, in the city of Utica, this 15th day of March, A. D. 1861.

[L. S.] A. A. BOYCE, *Clerk.*

94 *Replication to supplemental bill.*

U. S. circuit court, northern dist. of N. Y., in equity, March 20th, 1861.

CHARLES EDDY AND JACOB SHAVOR
ag'st
JOHN N. BILLINGS AND FREDERICK R. STOW.

Replication of Charles Eddy and Jacob Shavor, complainants, to the joint and several answers of John N. Billings and Frederick R. Stow, defendants, to the supplemental bill of said complaint.

These complainants, saving and reserving to themselves, now and at all times hereafter, all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of the said answer and further answer, for replication thereto, say that they will aver, maintain, and prove their supplemental bill in this action to be true, certain, and sufficient in law to be answered unto, and that the said answer of the said defendants is uncertain, untrue, and insufficient to be replied to by these repliants, without this, that any other matter or thing whatsoever in the said
95 answer contained, material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed and avoided, traversed or denied, is true. All of which matters and things these repliants are and will be ready to aver, maintain, and prove, as this honorable court shall direct, and humbly pray as in and by their original bill of complaint, and in their said supplemental bill in this cause, have always prayed.

MARCUS P. NORTON,
Solicitor for Complainants, Troy, N. Y.

At an adjourned term of the circuit court of the United States of America for the northern district of New York, in the second circuit, held at the city of Albany, on the 15th day of January, A. D. 1861.

Present: The Hon. Nathan K. Hall, judge.

CHARLES EDDY AND JACOB SHAVOR
vs.
JOHN N. BILLINGS AND FREDERICK R. STOW. } In equity.

96 On reading and filing of supplemental bill in this action, and notice of motion for continuation of injunction heretofore granted in this action by the Hon. Samuel Nelson, and for other relief, and on presentation of letters patent reissued on the 13th day of November, 1860, upon which said supplemental bill is founded, and after hearing Wm A. Beach, esq., of counsel for complainants and in default of defendants, it is now here, on motion of Marcus P. Norton, solicitor for complainants, ordered that the said in-

junction granted by the Hon. Samuel Nelson, on the 14th day of September, 1860, in this action, be, and the same hereby is, continued upon the said supplemental bill, according to the prayer thereof. And it is hereby further ordered that the defendants in this action, and each of them, their and each and every of their agents, counsellors, attorneys, and solicitors, be commanded, and the same are hereby commanded, according to the injunction issued, as aforesaid, on the 14th day of September, 1860, to refrain from directly or indirectly using, working, exercising, vending, or putting in practice, or buying or selling, or in anywise vending to others to use or be used, any coal stoves or burners, or other kind of stoves, counterfeiting, imitating, or resembling the said invention and improvements, or any of the component parts thereof, made in accordance to and with the extended, assigned, and last reissued letters patent, bearing date on the 13th day of Novem-
97 ber, 1860, or the invention or improvements thereof, mentioned, contained, and set forth in the said supplemental bill in this action, filed therein on the 15th day of January, 1861, and that the said injunction, granted as aforesaid, and continued by the order of this court upon the said supplemental bill on the 15th day of January, 1861, have the same force, power, and effect against the defendants, John N. Billings and Frederick R. Stow, and all other persons hereinbefore named, upon the said supplemental bill in this action, until the further order of this court.

A copy.

Witness my hand and official seal, at Albany, this 15th day of January, A. D. 1861.

[SEAL.] AUG'S A. BOYCE, *Clerk.*

I hereby admit personal service of a copy of the within order.
January, 19th 1861. P. STARR, *Sol. Def'ts.*

98 At an adjourned term of the circuit court of the United States of America for the northern district of New York, in the second circuit, held at the city of Albany, on the 15th day of January, A. D. 1861.

Present: The Hon. Nathan K. Hall, judge.

CHARLES EDDY AND JACOB SHAVOR
vs.
JOHN N. BILLINGS AND FRED'K R. STOW. } In equity.

On reading and filing of petition and notice of motion, and on presentation of letters patent reissued on the 13th day of November, 1860, and on reading of supplemental bill founded thereon, bearing date the 3d day of January, 1861, and after hearing Wm. A. Beach, esq., of counsel for complainants, and in default of defendants, it is now here, on motion of Marcus P. Norton, solicitor for complainants, ordered that the said supplemental bill be filed by the clerk of this court, with and as a part of the pleadings heretofore filed in this action, and that the said defendants answer the same according to the prayer in relation thereto in said supplemental bill.

A copy.

99 Witness my hand and official seal, at Albany, this 15th January, A. D. 1861.

[SEAL.] A. A. BOYCE, *Clerk.*

I hereby admit personal service of a copy of the within order.
January 19th, 1861. P. STARR, *Sol. Def'ts.*

Testimony.

In the circuit court of the United States, northern district of New York, in equity.

CHARLES EDDY AND JACOB SHAVOR
vs.
JOHN N. BILLINGS AND FRED'K R. STOW.

Testimony taken by and before Augustus A. Boyce, an examiner in
100 equity, in the cause above entitled, at M. P. Norton's office, Troy, (after attending August 12th, and adjourning over by consent, and again attending September 2nd, and adjourning over by consent,) on the day specified, viz: Wednesday, September 3d, 10 a. m.

Mr. Marcus P. Norton appears for pl'ffs; Mr. H. M. Ruggles appears for def'ts.

The plaintiffs' counsel calls the following witnesses for pl'ffs, to wit: Cyrus A. Sherwood, sworn and examined for plaintiffs, testifies:

Quest. 1st. What is your age, residence, and occupation?

Answer. I am 46 years of age, and reside in Troy, and am a machinist by occupation.

Q. 2d. How long have you been a machinist and model-maker?

Ans. I have been for about 22 years a machinist and model-maker.

Q. 3d. Have you ever been examined as an expert in patent cases?

Ans. In one case I was; in Plattsburg; in 1860, as I think.

Q. 4. Are you acquainted with a coal-burner called the Stanley coal-burner?

Ans. I am; I have been for about 15 years.

Q. 5th. Have you recently made special and careful examination of
101 several coal-burners resembling in appearance the Stanley coal-burners of which you have spoken of? If so, how many did you so examine, when, where, and for what purpose?

Ans. I examined 3 stoves at M. P. Norton's office, No. 25 Watkyns Building, Troy. I made the last examination on the 30th of August last, for the purpose of testifying in this case.

Q. 6. Have you recently examined a printed copy, including drawings, &c., of the patent for the Stanley coal-burner before named as reissued on the 13th day of November, 1860, to Charles Eddy and Jacob Shavor? And if so, do you understand the same?

Ans. I have, and I think I understand both the specification and the drawing.

Q. 7. How did you find these stoves you examined in relation to the parts embraced in the patent, that you examined?

Ans. Very nearly the same.

(Plaintiffs' counsel here offers in evidence three stoves marked by examiner, A, B, and C, as by labels duly affixed thereto.)

Q. 8. Do you find in Exhibit A the combinations set forth in the claims of the patent above referred to?

Ans. I do.

102 Q. 9. Do you find Exhibit A made in accordance to the specifications and drawings of the patent before referred to, and which you have examined, as before stated?

Ans. I do.

Q. 10th. Do you find in Exhibit B extended parts consisting of a projecting plinth or base, radiating columns, cornice or abacus, marked E in the drawings of the patent, cornice G or cornice marked G on the drawings

of the patent, and 2 cylinders, (an upper and lower cylinder,) described in the patent, arranged and combined as a whole?

Ans. I do.

Q. 10. Do you find the lower or fire cylinder, having four triangular radiating flues or columns arranged, connected, and combined with the same, one at each corner of the said projecting plinth or base, each forming a combination with the air-chamber in said plinth or base, and with intermediate chambers in the said cornice or abacus, and marked in the drawings of the patent above referred to large E and large E′?

Ans. I do find it so.

Q. 11. Do you find in Exhibit B one surrounding or upper cylinder with 4 triangular radiating flues or columes arranged, connected, and combined with the same, one at each corner of the said cornice or abacus?

Ans. I do.

103 Q. 12. Do you find in Exhibit B the arrangement and combination of shell *x*, at or near and with the lower end of the fire-cylinder and with the fire-grate *d*, substantially as described and set forth in the said patent?

Ans. I do.

Q. 13th. Do you find in said Exhibit B an arrangement and combination of the solid part of a conical ring *i* with the rear intermediate chamber E, substantially as described and set forth in the said patent?

Ans I find it there?

Q. 14th. Do you find in Exhibit B the arrangement and combination of the upper cylinder A, and the flues or columes B′, and the chamber H connected therewith, with the cornice or abacus E, or its equivalent, substantially as and for the purposes described and set forth in said patent?

Ans. I do.

Q. 15th. Do you find in Exhibit B the arrangement and combination of the said chamber H, having therein a damper, *o*, and thereto attached the exit pipe F, with a rear intermediate chamber, F, substantially as and for the purposes set forth in the said patent?

Ans. I do.

Q. 16th. Do you find in Exhibit B the arrangement and combination of the cornice G with the flues or columes B′, and with the cylinder A′, sub-

104 stantially as described and set forth in said patent?

Ans. I do not.

Q. 17th. Do you find in Exhibit B the arrangement and combination of the shell *x*, with any opening or equivalent for the opening *s*, so that the air entering therein may come in contact with the said shell *x*, whereby the same is difused and heated preparatory to its entering under and into the fire to promote combustion of the fuel, substantially as described and set forth in the said patent?

Ans I do.

Q. 18th. In Exhibit B do you find the current or draft operating, controlled, or regulated in the same manner, or substantially the same, as described and set forth in the said patent?

Ans. I do.

Q. 19th. Do you find Exhibit A to contain the same combinations, or substantially the same, and the same operations which you find in Exhibit B?

Ans. I do.

Q. Do you find Exhibit C to contain the same combinations, or substantially the same, and the same operations which you find in Exhibit B?

Ans. I do.

Q. 20th. Do you find the combinations which you describe as finding in the

said exhibits the parts, or substantially the same, described and set
105 forth in the said patent by which the said combinations you do find are made?

Ans. I do.

Recess to 3 p m.

3 p. m., counsel present.

Q. 21st. In your examination of Exhibit B do you find any change or material alterations which would in anywise make a substantial different coal burner or stove from that described or set forth in the specification and claims of the patent upon which you have been examined, or that would make any material and substantial difference between said Exhibit B, Exhibit A, and Exhibit C, in principle or operation?

Ans. I have not found any material or substantial difference.

Cross-examined by defendants' counsel.

Quest. 22nd. Have you ever been employed in the manufacture of stoves or stove models? And if so, for how long time?

Ans. No, I have not, except that I made a portion of one model of a stove?

Q. 23d. What is the flue of a stove?

(Objected to as immaterial and irrelevant unless confined to the stove in question.)

Ans. The flue of a stove is a passage whereby the smoke or gasses escape from the fire.

106 Q. 24th. Is it an enclosed space?

(Objected to as above.)

Ans. It is enclosed sometimes on 3 and sometimes on 4 sides. It is a passage enclosed at the sides and open at the ends.

Q. 25. In Exhibit B has the surmounting cylinder 4 triangular radiating flues arranged, connected, and combined with the same, one at each corner of the cornice?

Ans It has its equivalents.

(Objected to by defendants' counsel as not concise and not responsive to the question.)

Quest. 25 repeated.

Ans. I cannot alter my answer.

Ques. 26. Are there 4 triangular enclosed passages opened at each, arranged, connected, or combined with the said surmounting cylinder?

Ans. There are not.

Q. 27th. Is there a chamber in the rear of the said upper or surmounting cylinder having an exit pipe attached, and opening into the intermediate chamber of the stove, and into the cornice designated G in the patent?

Ans. There is not.

Q. 28. Is there such a chamber in Exhibit A?

Ans. There is.

Q. 29th. Is there in Exhibit B a conical ring combined with the intermediate chamber of the stove?

107 Ans. There is a double conical ring with a portion of the lower section of it cut away.

(Objected to as immaterial and irrelevant, and as no part of any combination called for by the patent.)

Q. 30th. Is there a conical ring, having in it a grate, combined with said intermediate chamber in Exhibit B?

Ans. There is not.

Q. 31st. In Exhibit B is there any conical ring having a grate in it?

Ans. There is not.

Q. 32. In Exhibit B are there any flues for the passage of smoke or gas from the intermediate chamber up and into the cornice marked G in the patent?

(Objected to on ground as irrelevant and immaterial, and as no part of invention claimed in the patent.)

Ans. There are not.

Q. 33. Is there any opening in Exhibit B in the front of the part designated in the patent as shell *x*?

Ans. There is its equivalent.

(Objected to by def'ts' counsel as responsive.)

Q. 34 repeated.

Ans. Same answer as last above.

Q. 35. Is there any hole in Exhibit B in front of the said shell *x*?

108 Ans. I cannot answer more definitely than I have done.

(Objected to as not responsive.)

Q. 36 repeated.

Ans. There is not above the base or plinth of the stove.

Q. 37. In the stove described in the specification of the patent is, or is there not, a circulation of heated air through the four radiating flues attached to the upper cylinder and the cornice marked G?

(Objected to as irrelevant and immaterial, and as no part of the invention asked for by the drawings in the patent.)

Ans. There is not, as I understand it, through the four.

Q. 38. Is there through two of the flues and cornice G?

(Objected to as last above.)

Ans. There is through the two front flues and the cornice G.

Q. 39. Is there any such operation in Exhibit B?

(Objected to as last above.)

Ans. There is not.

Q. 40. In the stove described in the specification does heated air pass from the cornice G into the chamber marked H, and out of the pipe?

(Objected to as above.)

109 Ans. It does, by a circuitcous route.

Q. 41. In the said stove last mentioned does the chamber H open into the cornice G?

(Objected to as above.)

Ans. It does.

(At request of def'ts' counsel pl'ffs' counsel here produces a certified model of the patented stove as mentioned in plaintiffs' patent, and which, by request, examiner marked D.)

Q. 42 Look at Exhibit D, and say whether heated air passes through the rear triangular flues of the upper story into the cornice G, and thence down into chamber H to the pipe.

(Objected to as above.)

Ans. A portion of the smoke and air passes up through the two rear triangular flues into the rear portion of cornice G, and down into the chamber H to the pipe.

Q. 43. Is not the operation of the upper story of the stove described in the specification and exhibited in the model marked D different from that of the upper story of Exhibit B?

Ans. I should think it was, of course. There is a circulation in the patented stove which there is not in Exhibit B.

For redirect examination by plaintiffs' counsel witness is asked:

Q. 44. Are there any flues in the Stanley coal-burner in question?

110 If so, state where they are, and point out the same in Exhibit D, and show the connections of the same.

Ans. There are 4 on the lower section, front and rear, and four on the upper section; the flues on the lower section are connected at the bottom to the plinth or base, and at the top with the lower plate opening into the chamber. The chamber is divided by division plates, making the front and rear intermediate chambers. These four flues are connected with the lower cylinder of the stove. The lower end of the flues open into the base. The four flues of the upper section open into the front and rear intermediate chambers of the abacus; the upper ends open in cornice G, front and rear. This is also divided into two parts. They are also connected with the upper cylinders. Neither of these flues open into the cylinder directly.

Q. 45. You state in your cross-examination that the two front flues of upper section of Exhibit B are cut out in the inside corner, and open directly into the upper cylinder. Does this in anywise effect the operation of the circutious draft or radiation of heat described and set forth in the patent?

(Objected to as assuming there is a circutious draft.)

111 Ans. As far as the lower section is concerned it does not effect the draft at all, or the radiation of heat. There is no circutious draft in the upper section in Exhibit B.

Q. 46. Will the upper flues cut away as you describe radiate heat as well as though the flues were closed?

(Objected to as irrelevant and immaterial.)

Ans. In my opinion they would not.

Q. 47. Is there a chamber in the rear of the surmounting cylinder or upper section in Exhibit B, which answers to the combination mentioned and set forth in the 6th claim of the patent referred to?

(Objected to as a repetition of a quest. put in the direct examination.)

Ans. I find such a chamber and such a combination.

Q. 48. Is it understood that there should be any grate in the front part of the conical ring to carry out the principle and operation of the stove described and set forth in the said patent?

(Objected to as immaterial.)

Ans. I cannot see that it would materially effect the stove in its operation.

Q 49. Is the opening or damper in front of the ash-pan in Exhibit B, constructed as there shown, an infringement of the 7th claim of the said

112 patent?

(Objected to as incompetent.)

Ans. I understand the opening in the ash-pan of stove B for admitting the air or draft equivalent to the opening *s* in the stove patented.

Q. 50 Will the same effect be produced in Exhibit B, when the flues are cut away in front opening into the upper cylinder and with no grate in the cornice G as the circulation and radiation of heat as is produced in Exhibit A?

(Objected to as irrelevant.)

Ans. I cannot see as it would make any material difference.

On recross-examination by def'ts' counsel:

Q. 51. Do not the changes made in the upper section of Exhibit B as stated in last question materially effect the operation of that part of the stove?

Ans. To a certain extent it does effect the radiation. It effects the circulation in the upper section, but not in the lower.

Adjourned to 9½ to-morrow a. m.

(Signed) C. A. SHERWOOD.

Subscribed and sworn to before me the day above named.

A. A. BOYCE, *U. S. Examiner.*

THURSDAY, *Sept.* 4—9½ *a. m.*

113 Counsel present as yesterday.

Plaintiffs' counsel calls as a witness William R. Shaw, who is sworn, and testifies:

Q. 52. What is your name, age, residence, and occupation?

Ans. My name is William R. Shaw; my age is 45; my residence is Troy; and occupation is a pattern-maker.

Q. 53. Are you acquainted with a coal-burner or stove known and called the Stanley coal-burner? And if so, where and for how long have you known the same?

Ans. Yes, I am, and have known the same by appearance 14 or 15 years, in Troy.

Q. 54. For how long time have you been a pattern-maker?

Ans. For about 18 years.

Q. 56. What kind of patterns has been your general manufacture during this time?

Ans. Chiefly stove patterns.

Q. 57. Have you made any patterns for the Stanley coal-burner? And if so, when, where, and for whom, and how many different sizes of said

114 stove?

Ans. I have made such patterns, I think in 1859, in Troy, for Charles Eddy & Co., of Troy, and of three different sizes, number 1, 2, and 3.

Q. 58. Do you understand the principle, the operation, and the combinations of the different parts of which the said coal-burner is composed?

Ans. Yes, I do.

Q. 59. Have you recently examined several such coal-burners? And if so, when, where, how many, and for what purpose?

Ans. I have examined such in No. 25 Wotkyns Building, in Troy, yesterday, the 3d inst. There were 3 of such coal-burners, and they were marked Exhibit A, B, and C.

Q. 60. Did you at that time carefully examine Exhibits B and C? And if so, do you understand the principle and operation and the various parts of which the same are composed?

Ans. I did examine them carefully, and think I understand their operation and the parts thereof.

Q. 61. Was Exhibit A made from the patterns which you made for Charles Eddy & Co.?

Ans. It was.

Q. 62. Have you recently examined the reissue of letters patent, including specifications and drawings of the Stanley coal-burner, issued to Charles Eddy and Jacob Shavor 13th Nov., 1860? And if so, do you understand the same?

115 Ans. Yes, I have, and understand them.

Q. 63. Do you find in Exhibit B exterior parts, consisting of a projecting plinth or base, radiating columes or abacus E, cornice G, and the lower fire-cylinder and upper cylinder, arranged and combined as a whole, as described and set forth in the said patent? And if so, do you find the same in Exhibit A, and Exhibit C, and Exhibit D?

Ans. I do.

Q. 64. Do you find in Exhibit B a fire-cylinder having 4 triangular radiating flues or columes arranged, connected, and combined with the same one at each corner of the said base, each forming a communication with the air-chamber in the said base and with intermediate chambers E and E′, in the said abacus as described and set forth in the said patent? And if so, do you find the same in Exhibits A, C, and D?

Ans. I do.

Q. 65. Do you find in Exhibit B a surmounting cylinder A′, having 4 triangular radiating columes arranged, connected, and combined with the same one at each corner of the said abacus E, having also the chamber H, and having the cornice G upon the top thereof, and forming the outward construction and appearance, substantially as described and set forth in the said patent? And if so, do you find the same in Exhibit A, C, and D?

116 Ans. Yes, I do, substantially the same.

Q. 66. Do you find in Exhibit B the arrangement and combination of the shell *x* at or near and with the lower end of the said fire-cylinder A, and with the fire-grate *d*, substantially as described and set forth in said patent? And if so, do you find the same in the said Exhibits A, C, and D?

Ans. Yes, I do.

Q. 66½. Do you find in Exhibit B the arrangement and combination of the solid part of the conical ring *i*, with the rear intermediate chamber E′, substantially the same as described and set forth in the said patent? And if so, do you find the same in Exhibit A, C, and D?

Ans. Yes, I do.

Q. 67. Do you find in Exhibit B the arrangement and combination of the upper cylinder A′, and the colume B′, and the chamber H connected therewith, with the upper plate of the abacus E or its equivalent, substantially as described and set forth in the said patent? And if so, do you find the same in Exhibits A, C, and D?

Ans. Yes, I do.

Q. 68. Do you find in Exhibit B an arrangement and combination of the large chamber H, having therein the damper *o*, and there attached the funel F, with the rear intermediate chamber E′, substantially as and for the

117 purpose described and set forth in said patent? And if so, do you find the same in Exhibits A, C, and D?

Ans. Yes, I do.

Q. 69. Do you find in Exhibit B the arrangement and combination of the shell *x* with the opening *s* or any equivalent therefor, to diffuse and heat the air preparatory to its entrance under and into the fire, to promote combustion of the fuel, substantially as set forth and described in said patent?

Ans. Yes, I do.

Q. 70. Do you find in Exhibit B the arrangement and combination of the cornice G, with the columes B′, and with the cylinder A, substantially as described and set forth in said patent? And if so, do you find the same in Exhibits A, C, and D?

Ans. Yes, I do.

Q. 71. How many kind of drafts are they, and what are they contained in said patent and said exhibit?

Ans There are two, a direct and a circutious draught.

Q. 72. What is the operation of the direct draughts?

Ans. By allowing the fire, or heated air, or smoke to go out of the exit pipe direct by dropping the damper *o*.

Q. 73. By what means and how is the circuitous draught produced?

118 Ans. By closing the rear damper *o* the heated air and smoke passes forward through apertures in the coal-grate into the flue in front, down the same into the shell or flues below marked in the patent, and then along the same to the rear, and then entering the rear triangular flues up the same into the rear intermediate chamber E′, and then into another chamber H, and then passes into the exit pipe out.

Q. 74th. Do you find in Exhibit A, B, C, and D the direct and circuitous draughts which you have just described?

Ans. Yes, I do.

Q. 75th. Will the closing up of the lower end of the rear triangular flues of the upper section in anywise change or effect either the direct or circuitous draughts which you have before described?

(Objected to as immaterial and irrelevant.)

Ans. I think not.

Q. 76. Will the discontinuing of the rear chamber H from the cornice G, and the closing of said chamber over the exit pipe or funel F, in anywise change or effect the direct or circuitous draughts which you have before described?

(Objected to as above.)

Ans. I think not.

119 Q. 77. Will the removal of the grate in the conical ring *i* change or in anywise effect the circuitous draught you have before described?

(Objected to as above.)

Ans. It will not change or effect the draught.

Q. 78. Is not the removal of the grate in the conical ring *i* an injury to the said coal-burner? If so, how?

(Objected to as above.)

Ans. It would only be an injury by allowing chunks of coal to fall through into the flues.

Q. 79. What is the object or use of the grate in the said conical ring?

Ans. It is to allow the circuitous draughts to pass through the opening into the front flues, and at the same time to prevent coal from falling through into the corner lower flues.

Q. 80. Are you now at work on patterns for a larger size of the Stanley coal-burner? And if so, about how long since you begun it?

Ans. I am to work on a larger size, and have been for about 3 months.

On cross-examination by def'ts' counsel:

Q. 81. What is the flue of a stove?

(Objected to as immaterial and irrelevant, unless confined to the stove in controversy.)

120 Ans. I suppose it is that part of a stove which is partitioned off for the passage of heated air and smoke, and anything generated in the fire-box or fire-chamber.

Q. 82. Has the upper cylinder of Exhibit B 4 triangular flues arranged, connected, and combined with the corner—one at each corner of the cornice?

Ans. It has not 4 flues, but has 4 radiating columns.

Q. 83. Is there any circulation or draught through any triangular flues in in the upper section of Exhibit B?

(Objected to as immaterial and irrelevant, and no part of invention or improvements called for by any of the claims of said patent.)

Ans. I think not.

Q. 84. In Exhibit B is there a chamber in the rear of the upper section having an exit pipe attached and opening into the rear intermediate chamber and into the cornice marked or called G in the patent?

(Objected to as no part of the invention or improvements described in, and claimed by, the 6th claim, or any other claim of said patent.)

Ans. There is a chamber in the rear, being an exit pipe, but no connection with the cornice G, but has connection with the rear intermediate chamber.

121 Q. 85. Is there such a chamber as described in last question in Exhibits A and D?

Ans. There is.

Recess to 2 p. m.

2 p. m., counsel present.

Q. 86. In Exhibit B is there a conical ring having in it grates combined with the intermediate chamber of the stove?

Ans. No, sir; there is no grate in it.

Q. 87. In Exhibits B and D are there flues for the passage of the draught or hot air and smoke from the intermediate up and into the cornice G?

(Objected to as immaterial and irrelevant, and no part of invention patented.)

Ans. There are flues for that purpose in Exhibit D, but not in Exhibit B.

Q. 88. Is there any opening in Exhibit B in front of the part designated in the patent as shell *x*?

Ans. There is not.

Q. 89. In Exhibit D, and the stove described in the specification of the patent, is or is there not a circulation of heated air through the rear triangular flues or columes of the upper section and the cornice G?

(Objected to as above.)

Ans. I think there is.

Q. 90. Is not the circulation described in the last question a part of the
122 circulation of the *of the* stove when the damper *o* is closed?

(Objected to as last above.)

Ans. Yes, I think so.

Q. 91. By closing the lower end of these rear upper flues will not that circulation be stopped?

(Objected to as before.)

Ans. Yes; in the colume so closed it will.

Q. 92. By cutting off chamber H below cornice G will not the escape of gasses and hot air from the rear of cornice G to the exit pipe be destroyed?

(Objected to as before.)

Ans. I see no way in which they could escape from the rear part of the cornice G.

Q. 93. On re-examination by pl'ffs' counsel witness testifies:

Q. 94. Is the circulationed in the question No. 90, and your answer thereto, any part of the direct or circutious draught described and set forth in said patent?

Ans. It is not.

Q. 95. Is there a chamber in the rear of the surmounting cylinder in Exhibit B which answers to the combination mentioned and contained in the 6th claim of the said patent?

Ans. Yes.

Q. 96. Is it material that there be any grate in the conical ring to
123 carry out the general features or principle of the stove set forth in the patent?

Ans. I think not.

Q. 97. Is the opening or damper in front of the ash-pan in Exhibit B, constructed as there shown, substantially the same and performing substantially the same functions as opening *s*, mentioned and claimed in the 7th claim of the patent?

Ans. Yes; I think it does.

(Signed) WILLIAM R. SHAW.

Subscribed and sworn to before the day above named.

A. A. BOYCE, *U. S. Examiner.*

Examination adjourned to Wednesday, 17 September, inst., 1862, at 10 o'clock a. m., by consent of counsel.

A. A. BOYCE, *U. S. Examiner.*

124 WEDNESDAY, *September 17th*—10 *a. m.*

Examination continued at M. P. Norton's office, in Troy.

Mr. Norton, for pl'ffs, and Mr. Ruggles, for def'ts, present, as counsel of respective parties.

Cyrus A. Sherwood recalled for plaintiffs:

Q. 98. How many kinds of draught, and what are they, if any, do you find in the said letters patent?

Ans. Two, direct and circuitous.

Q. 99. What is the direct draught, and how is it operated?

Ans. It is by allowing the smoke and products of combustion to escape direct with the pipe. It is operated by means of a damper in the rear chamber, marked H.

Q. 100. What is the circuitous draught, and how is it operated?

Ans. It is by closing the damper *o*, which causes the products of combustion to pass down through the front flues and the base, up the rear flue into chamber H into the pipe.

Q. 101. Do you find in Exhibits A, B, C, and D the direct and circuitous draughts which you have just described?

Ans. I do.

Q. 102. Will the closing up of the lower end of the rear triangular
125 flues of the upper section in any manner change or effect either the direct or circuitous draught which you have just described?

(Objected to as irrelevant.)

Ans. It will not.

Q. 103. Will the combination of the rear triangular flues of the upper section, externally, be the same or not with the cornice or abacus E, as described and set forth in the specifications and drawings of the said patent, if the lower end of the said flues be closed up?

(Same objection as above.)

Ans. I can't see that there would be any difference, but what it is the same.

Q. 104. Will the disconnecting of the rear chamber H from the cornice G, and the closing of the said chamber over the exit pipe or funel F, in anywise change or effect the direct or circuitous draught which you have before described?

(Objected to as above)

Ans. It will not.

Q. 105. Will the removal of the grate in the conical ring *i* change or in anywise effect the circuitous draught which you have before described?

(Same objection as above.)

Ans. It will not.

Q. 106. What is the effect, if any, produced in this stove by remov-
126 ing the grate in the conical ring *i*?

Ans. It will allow coal to fall into the flue and clog them, thereby destroying the draught.

Q 107. Would the opening of the front flues of the upper section into the upper cylinder by cutting away or removing any part of the said flues in anywise effect the operation of the direct and circuitous draught or the radiation of heat? and if so, how?

(Objected to as above.)

Ans. I don't see that it would effect it materially.

Q. 108. Have you carefully examined Exhibit H? and if so, do you find internal alterations? and if so, do said alterations materially effect, change, or alter the principle or essential features described and set forth in the said patent and covered by the 1st, 2d, 3rd, 5th, 6th, 7th, and 8th claims of the said patent? and if so, how?

Ans. I have examined Exhibit B, and I find alterations, but they do not materially effect the combination set forth by the claims 1, 2, 3, 5, 6, 7, and 8.

(Signed) C. A. SHERWOOD.

Subscribed and sworn before me the day above named.

A. A. BOYCE, *U. S. Examiner.*

Charles D. Bisco, a witness called and sworn for pl'ffs, testifies:

127 Q. 109. What is your age, residence, and occupation?

Ans. My age is 34; my residence is Troy; and my occupation is that of clerk and salesman.

Q. 110. Have you been the clerk of the firm of Stow & White, stove dealers, in the city of Troy? and if so, when did you commence and how long did you continue as said clerk?

Ans. I commenced as clerk for Stow & White the 18th day of March, 1861, and was with that firm until it dissolved, about 20th Sep., 1861. I was with White until he died, 18 March, 1862. I am still in same store, closing up the business of the store.

Q. 111. Was Mr. Stow, of the firm of Stow & White, a partner in the firm of Billings & Stow? and if so, did Billings & Stow carry on the stove business at the same store where Stow & White carried on the same kind of business?

Ans. Mr. Stow was formerly a partner of Mr. John N. Billings, and they carried on the stove business in the same store.

Q. 112. Is this Mr. Stow one of the def'ts in this suit, and is Mr. Billings, who you have named, a def't in this suit?

Ans. I suppose so.

Q. 113. Have you to-day examined the Stanley coal-burner marked Exhibit H? and if so, when and where did you first see the same?

Ans. I have examined it, and I first saw it, or one just like , in

128 Stow & White's office, at their store, 183 River street, in Troy.

Q. 114. At the time you first saw this Exhibit B was the same in use? and if so, where and by whom?

Ans. It was in use at the office of Stow & White, at 183 River st. here, and their porter built fires in it.

Q. 115. Did you sell this Exhibit B? and if so, when and to whom?

Ans. I did sell it to Charles Eddy & Co. Mr. Shavor, one of the firm, bought it.

Q. 116. Did Stow & White exchange a coal-burner like Exhibit B and for Exhibit B? and if so, when and under what circumstances?

Ans. They exchanged a stove of the same pattern as Exhibit B, but a size smaller, for Exhibit B. I won't say at what time, but think it was in May, 1861.

CHARLES D. BISCO.

Subscribed and sworn before me the day above named.

A. A. BOYCE, *U. S. Examiner.*

William D. Clegg, a witness called and sworn for pl'ffs, testifies:

Q. 117. What is your age, residence, and occupation?

Ans. I am 32 years of age, and reside in Troy, and am in the mercantile business.

129 Q. 118. In 1860 was there a firm in this city under the name of Billings & Stow carrying on the stove business as purchasers and vendors? And if so, were you acquainted with said Billings & Stow, and

are they def'ts in this suit, and how long thereafter did they continue in said business?

Ans. There was such a firm here in Troy in 1860 carrying on such business, and I knew them. I had only heard of such a suit. They continued in such business until Feb'y or March, 1861.

Q. 119. Have you ever been in the employ of the said Billings & Stow? And if so, when did you commence and when did you leave their employ, and in what capacity was you employed?

Ans. I have been in their employ. I commenced in March, 1860, and continued there till about the first of Feb'y, 1861. I was hired to travel and sell stoves, and acted as general clerk.

Q. 120. Are you acquainted with a coal stove or burner known and called the Stanley coal-burner? And if so, for how long a time and where have you been acquainted with it?

Ans. I knew of the existence of such a stove as being in market several years ago in Troy. Samples of the same stove, or known as such by name, were in the sales-room here.

130 Q. 121. Did you, while in their employ, sell for them and under their instructions coal-burners known as the said Stanley coal-burner? and if so, when?

Ans. I sold coal-burner stoves, but I could not say it was the identical Stanley coal-burner, but it bore a resemblance to the stove of that name. This was in the year 1860.

Q. 122. The coal-burners you sold in 1860, were they the same kind of coal-burners to all outward appearance as the Stanley coal-burner which you saw in market in Troy many years ago?

Ans. The external form of the stove was the same.

Q. 123. Were these coal-burners which you sold the same which the firm of Billings & Stow purchased of H. M. Ruggles, and which were said to have been manufactured at Poultney, Vt.?

Ans. All I know about it, that they were the same stoves, is that the firm received them, stoves and invoices of them, from H. M. Ruggles; the invoices were dated at Poultney, Vermont. I gave Ruggles credit in the books of the firm of Billings & Stow for them or some portion of them.

Recess to 2 p. m.

At 2 p. m. examination continued.

131 Q. 124. Have you examined to-day a Stanley coal-burner, marked Exhibit B and C? And if so, did the stoves sold by Billings & Stow contain external parts and construction which resembled those shown in said exhibit, and did the said stoves so sold contain the construction shown by Exhibit D?

Ans. I should think the stoves I sold for Billings & Stow were mostly sold from a printed cut, and they resembled this model marked as Exhibit D, and also Exhibits B and C.

Q. 125. Did you see any Stanley coal-burners in or about the store of Billings & Stow in the fall of 1860?

Ans. I went west in July and was gone until Oct. in that year, and then was sick for a month or so after my return, and after I got up and went to work at store, say about 1st of Nov., the samples of Stanley coal-burner, which had been on the floor, were gone.

Q. 126. Are you acquainted with the books of def'ts kept at that time, and have you made any entries in those books? and if so, have you made any charges against any person of the Stanley coal-burner?

Ans. I am so acquainted, and charged and posted the items therein, and I charged "coal-burners," and I cannot say whether the word "Stanley" was prefixed or not.

132 Q. 127. Was there any of these coal-burners so sold which contained a damper in front of the ash-pan drawer, such as is shown in Exhibit B?

Ans. We had such a stove up in the office as Exhibit B, with the damper in front of the ash-pan, and I only saw that one.

Q. 128. When you went out to sell stoves for Billings & Stow what instructions did they give you in regard to sale of stoves, and what kind did you sell?

Ans. I sold cook stoves and parlor stoves for wood and coal, and among the parlor stoves I sold them under the name of an "improved Stanley coal-burner," and I told customers it was an improvement, and a better thing than the old Stanley coal-burner. They sent out circulars advertising the "improved coal-burner."

(Pl'ffs' counsel here offered such a circular, and it is marked Exhibit F.)

Q. 129. Have you seen such circular as Exhibit F in the store of the def'ts, Billings & Stow, during the time you were a clerk there?

Ans. Yes, I have.

WM. D. CLEGG.

Subscribed and sworn before me the day above named.

A. A. BOYCE, *U. S. Examiner.*

Adjourned for 2 weeks, to Wednesday, Oct. 1st, 10 a. m.

133 Attended Oct. 16th, and defendants' counsel not appearing I again adjourned from Oct. 16 to Oct. 17, 10 a. m.

FRIDAY, *Oct. 17th*, 1862—10 *a. m.*

The counsel aforesaid now again appears before me at Mr. Norton's office, in Troy, and examination is continued for pl'ffs.

Pl'ffs offer in evidence a certified copy of a patent issued to Henry Stanley for improvements in coal-burners, dated January 4th, 1845.

Also certified copy of same patent, reissued April 10th, 1860, to the pl'ffs.

Also a certified copy same patent, reissued May 8th, 1860, to pl'ffs.

Also same patent, reissued Nov. 13th, 1860, to pl'ffs.

Also a certified copy of the extension of the same patent, dated 24th of December, 1858, which is attached to the certified copy reissued May 8th, 1860.

Also an assignment of same patent by Henry Stanley to John Stanley, dated January 4th, 1859, recorded in Patent Office May 1st, 1860.

The preceding are respectively marked Exhibits F, G, H, I, J, K.

Plaintiffs here offer as a witness Marcus P. Norton, who, being duly sworn, testifies and says:

I am solicitor for the pl'ffs. Some time during the fall and winter of 1860, after the reissue of the pl'ffs' patent in this suit, dated Nov. 13th,
134 1860, I called on the def'ts at their store, in the city of Troy, and had conversation with the def't Billings in relation to this suit and relative to the said reissue of the patent. He told me that the coal-burner had been so changed or altered by Mr. Ruggles, the manufacturer, as not to infringe pl'ffs' patent. I then asked him in what respects the alterations had been made. He showed me a coal-burner then in use in his office, and opening the door of the stove he showed me that the upper front flues had been so cut away on the inside as to open into the upper section of the stove. He then showed me that the front part of the conical ring had been removed. He then showed me that the air for aiding combustion was admitted to the lower part of the fire-cylinder through the front part of the ash-drawer and the opening formerly used for the same purpose above the base had been en-

tirely closed. He then said that this coal-burner was a better burner and worked better than the Stanley burner that they had formerly sold; that it was no infringement of pl'ffs' patent; that they had been so advised by Mr Ruggles, their attorney; that they should sell that kind of coal-burner whenever they had calls for them. The coal-burner which he then showed me and which he said they should sell was like and similar to Exhibit B, but a size smaller, I should think. I think this conversation took place in the month of December, 1860, and before the controversy on supplemental bill of an injunction granted on the original bill, which was Jan. 15, 1861.

135 The supplemental bill was filed same day, January 15th, 1861.

On cross-examination by Mr. Ruggles the witness testifies:

Q. Have you not frequently, prior to Nov. 13th, 1860, called on said Billings & Stow and had conversation with the said Billings in regard to the said patent?

Ans. I had, prior to that time and after May 8th, 1860.

Q. Did you make any memorandum of that conversation you say you had with Billings?

Ans. I did not.

Q. Had you never seen the stove in Billings & Stow's office, which you say you saw at this time, before, or a stove similar or like it in their office?

Ans. I can't say that I had seen that stove, or one like it, in their office.

Q. Had you seen prior to that time a stove anywhere of like construction? and if so, when and where?

Ans. I had; about the middle of October, 1860, in Burlington, Vermont.

Q. Who was present besides yourself and Billings at this conversation?

Ans. I think Mr. Stow was there, one of the def'ts, but I am not sure as to this. Some one stood at the desk there in the store writing.

MARCUS P. NORTON.

Subscribed as sworn before me the day above named.

A. A. BOYCE, *U. S. Examiner.*

136 Plaintiffs here called as a witness William H. Tibbits, who, being sworn, testifies and says:

Q. Where do you reside, and what is your age and business?

Ans. I reside in Troy; I am 47 years old; and my business is the stove and tin ware business here.

Q. Are you acquainted with John N. Billings and Frederick R. Stow, of Troy? and if so, were they engaged in the stove business in the city of Troy in 1860?

Ans. I am so acquainted and they were so engaged.

Q. Are you acquainted with a coal-burner known as and called the Stanley coal-burner? and if so, did you in 1860 purchase of def'ts, Billings & Stow, Stanley coal burners?

Ans. Yes, I am so acquainted and I did so purchase such coal-burners.

Q. Have you to-day examined Exhibit C? and if so, did you purchase of def'ts the same, and did you sell the same to pl'ffs in this suit?

Ans. Yes, I did.

Q. In what part of the year 1860 did you purchase of def'ts Exhibit C?

Ans. It was forepart of Sept.

Q. Did def'ts in the month of Sept., 1860, send to your store a quantity or number of Stanley coal-burners like Exhibit C? and if so, about how many, and about what time in that month was it?

137 Ans. They did so; there was 10 or 12; and it was in the first half of the month, but I can't say what day.

Q. What became of the stoves or burners referred to in your last answer?

Ans. Billings & Stow sent for them.

Q. About what time did Billings & Stow send for these stoves?

Ans. I can't say positively, but I should say it was in the month of January, 1861.

Q. Did you in 1860 and thereafter during the copartnership of the def'ts purchase at different times parts for repairs for the Stanley coal-burner? and if so, what parts did you so purchase?

(Objected to by def'ts' counsel as irrelevant.)

Ans. I did so purchase the lower grate, brick cone grate, top base plate, and top plate of the base, on which rests the fire-cylinder. We also bought several other parts from time to time as we needed.

Have you seen in the def'ts' store coal-burners like Exhibit C? and if so, what year, and about how many?

Ans. Yes, I have seen such there in 1860 and the forepart of 1861, but the number I can't specify.

Q. Have either of def'ts ever shown or exhibited to you in their office a Stanley coal-burner, such as Exhibit B? and if so, what was said by them in relation thereto?

138 Ans. They did so. They said they were going to manufacture and sell those stoves, as it was no infringement of the Stanley patent. I think this was in 1861.

WILLIAM H. TIBBITS.

Subscribed as sworn to above on the day above named.

A. A. BOYCE, *U. S. Examiner.*

Plaintiffs then called as a witness Caleb Williamson, being duly sworn, testifies and says:

Q. What is your age, residence, and occupation?

Ans. My age is 23; I reside in Troy; and my business is that of tin jobber and stove dealer.

Q. Are you acquainted with John N. Billings and Frederick R. Stow, the def'ts? and if so, how long have you known them?

Ans. I am so acquainted, and have known them ever since they begun business in 1858, in Troy.

Q. Have you ever purchased of def'ts Stanley coal-burners, such as Exhibit C? and if so, when, and about how many?

Ans. As near as I can remember in 1860 or 1861; I can't say particularly without reference to invoices. I purchased of def'ts 2 or more Stanley coal-burners.

Q. Are you acquainted with the Stanley coal-burners? and if so, how long have you been so acquainted? And has it been your custom to sell

139 such coal-burners from time to time since you have been in the business referred to?

Ans. Yes.

Q. Have you purchased of def'ts repairs for the Stanley coal-burner; and if so, when, and what parts or pieces?

(Objected to as before.)

Ans. I have, in about the year 1860 or 1861; they were the cone grate, fire-grate, base plate, and all the parts necessary in repairing the Stanley stove. I bought them also of Mr. Stow after he became a partner of firm of Stow or White, successors of Billings & Stow.

Q. Have you seen it def'ts' store Stanley coal-burners? and if so, in what year, and about how many?

Ans. In 1860 and in the forepart of 1861 I saw such stoves in def'ts store; about 10 or 15 I should think. I think Stow, the def't, showed them to me, and he said he wanted to sell them.

CALEB WILLIAMSON.

Subscribed as sworn before me on the day above named.

A. A. BOYCE, *U. S. Examiner.*

Def'ts here introduced as evidence an assignment of patent issued to Henry Stanley, made by him to Henry J. Ruggles, dated 18th May,
140 1853, and recorded in the Patent Office May 23d, 1853, and which is here marked as Defendants' Exhibit No. 1.

It is here mutually agreed by counsel that the proofs be finally closed.

A. A. BOYCE, *U. S. Examiner.*

141 At a special term of the circuit court of the United States of America for the northern district of New York, in the second circuit, held at the clerk's office, in Utica, on Wednesday, the 10th day of August, in the year of our Lord one thousand eight hundred and sixty-four.

Present: The Honorable Samuel Nelson, judge.

CHARLES EDDY AND JACOB SHAVER
vs.
JOHN N. BILLINGS AND FREDERICK R. STOW.

This cause having been brought to trial on the pleadings and proofs, and the decision of the judge having been filed, and an order having been duly entered herein that the bill of complaint in this cause be dismissed with costs, now, on motion of P. Starr, sol. for def'ts, it is now here ordered, adjudged, and decreed that the bill of complaint be, and the same is hereby, dismissed out of this court. And it is further ordered, adjudged, and decreed that the def'ts recover of the complainants the sum of eighty-two dollars and fifteen cents, for their costs and disbursements in this cause, and that said def'ts have execution therefor.

142 U. S. circ't court, no. dis't of N. Y.

CHARLES EDDY *et al.*
vs.
JOHN N. BILLINGS *et al.*

Please take notice that the notice of taxation for the 1st Monday of August next, heretofore served in this cause, is countermanded, and that the costs of this cause, a copy of which has been served on you, will be taxed by the clerk of this court, at his office, in Utica, on the 10th day of August next, at 10 o'clock in the forenoon.

Yours, &c.,

July 27th, 1864. P. STARR, *Def'ts' Sol'r.*

M. P. NORTON, Esq., Troy, N. Y., *Sol'r for Compl'ts.*

CITY AND COUNTY OF NEW YORK, *ss:*

H. M. Ruggles, being duly sworn, says that on the 29th day of July, 1864, he deposited a notice, of which the foregoing is a copy, in the post office, directed M. P. Norton, pl'ffs' sol'r, at Troy, N. Y., and paid the postage thereon.

H. M. RUGGLES.

Sworn before me Aug. 6, 1864.
[SEAL.]

DOUGLAS A. LEVIEN,
Notary Public, 10 *Wall St., New York.*

143 *Def'ts' costs.*

U. S. circuit court.

CHARLES EDDY *et al.*
vs.
JOHN N. BILLINGS *et al.*

Docket fee	$20 00	
7 depositions	17 50	
On motion for attach't denied, with costs	10 00	
		$47 50
Disbursements:		
Clerk's fees—ent'g appearance, filing papers, ent'g orders, &c., &c., &c.	15 65	
Postage	1 25	
		16 90
Copy, answer	5 75	
to suppl. bill	4 50	
Affidavits on motion, &c.	7 50	
		17 75
Taxed at		82 15

August 10th, 1864. A. A. BOYCE, *Clerk.*

Please take notice that the foregoing bill of costs, &c., in this cause, will be taxed before the clerk, at Utica, on the 10th day of August next, at ten o'clock in the forenoon.

Yours, &c.,
P. STARR, *Def'ts Sol'r.*

Dated July 14th, 1864.

To M. P. NORTON, Esq., *Compl'ts' Sol'r.*

Sept. 10, 1864. Above bill retaxed at $46 90-100.

A. A. BOYCE, *Clerk.*

144 CITY AND COUNTY OF NEW YORK, *ss:*

P. Starr, sol'r for def'ts, being duly sworn, says the within disbursements have been made or necessarily incurred in the within cause.

P. STARR.

Sworn before me August 6, 1864.
[SEAL.] DOUGLAS A. LEVIEN, JR.,
Notary Public, New York.

145 Circuit court of the United States, northern district of New York, in equity.

CHARLES EDDY AND JACOB SHAVER
vs.
JOHN N. BILLINGS AND FREDERICK R. STOW.

This cause having been heretofore heard on pleadings and proofs, and the foregoing decree having been filed and entered, dismissing the bill of complaint, with eighty-two dollars and fifteen cents costs to defendants, now, therefore, the said costs, as taxed, together with the pleadings and decrees herein, as required by the course and practice of this court, are now here attached together, and the said final decree is signed and enrolled according to law and the course and practice of this court, on this 10th day of August, 1864, at the clerk's office, in Utica, in said district, and judgment docketed accordingly. A. A. BOYCE, *Clerk.*

Filed 30th January, 1865.

Wm. C. Bryant & Co., Printers, 41 Nassau Street, cor. Liberty, N. Y.

U. S. Supreme Court.

Charles Eddy and Jacob Shavor,
Complainants, Appellants.
vs.
John N. Billings and Frederick K. Stow,
Defendants, Appellees.

Appellees' Brief, &c.

This is an appeal from a decree of the Circuit Court for the Northern District of New York, dismissing the complainants' bill in a patent cause.

On the 4th of July, 1845, a patent was granted to Henry Stanley for improvements in coal stoves.

On the 18th of May, 1853, by an assignment, duly recorded May 23d, 1853, Stanley assigned to H. J. Ruggles all his interest in the invention to the full end of the term for which said patent was or might be granted.

The whole instrument is as follows, having been omitted from the case (fol. 140):

Whereas, I, Henry Stanley, of Troy, N. Y., did obtain letters patent of the United States for certain improvements in Rotary Top Stoves, which letters patent bear date the 25th day of October, A. D. 1845; and whereas I also did obtain letters patent for improvement in Coal Stoves, which letters patent bear date January 4, A. D. 1845; and whereas Henry J. Ruggles, of Poultney, in the State of Vermont, is desirous of acquiring an interest in both of said patents,

Now, then, this indenture witnesseth that for and in con-

sideration of four thousand seven hundred and fifty dollars to me in hand paid, the receipt whereof is hereby acknowledged, I have assigned, sold and set over, and do hereby assign, sell and set over unto the said Henry J. Ruggles all the right, title and interest which I have in the said inventions, or either of them, as secured to me by said letters patent, to and in the several States of the United States, except I reserve the right for my brother, John P. E. Stanley, of Baltimore, to use any or all of the above patents in his foundry in Baltimore, but not elsewhere; and to sell the stoves which he may make from said patents in Pennsylvania and in the States south and west of Pennsylvania, and not elsewhere.

The same to be held and used by the said Henry J. Ruggles for his own use and behoof, and for the use and behoof of his legal representatives, to the full end of the term for which said letters patent are or may be granted as fully and entirely as the same would have been held and enjoyed by me had this assignment and sale not been made.

In testimony whereof, I have hereunto set my hand and seal, this eighteenth day of May, A. D. 1853.

HENRY STANLEY, [L. S.]

J. B. BEAMAN,
JANE BEAMAN, } Witnesses.

UNITED STATES OFFICE, PATENTS.

Received May 23, 1853, and recorded July 1, 1853, in Liber Z—2, of Transfers of Patent Rights, p. 28–9. In testimony whereof, I have caused the seal of the Patent Office to be hereunto annexed.

CHAS. MASON,
Commissioner of Patents.

On the 3d of January, 1859, the patent was extended by the Commissioner for seven years.

On the 4th of January, 1859, Henry Stanley assigned to John Stanley his assumed interest in the extended term; and on the 24th of March, 1859, John Stanley assigned the same interest to the complainants.

On the 13th of July, 1860, the complainants filed their bill for an account and injunction, charging the defendants with infringement, in the usual form.

The defendants filed their answer in due time.

The complainants replied, and the cause was at issue.

On the 13th November, 1860, the complainants surrendered the patent, and obtained a re-issue, and subsequently, upon leave granted by the Court, filed their supplemental bill, in February, 1861, to which the defendants answered, and issue was joined, and testimony taken.

The cause having been heard on pleadings and proofs, the bill was dismissed, with costs.

The only question in the cause which affects the merits, arises upon the construction of the assignment from Stanley to Ruggles, in 1853.

> That assignment was for a large pecuniary consideration, and conveyed all the grantor's interest in the invention, secured by the letters patent, to be held and used by Ruggles for his own use, and the use of his legal representatives, "to the full *end of the term* for which said letters patent are or may be granted."
>
> See assignment, *supra*.

POINTS.

First.—The complainants took no title to the patent by the assignment under which they claim, dated March 24th, 1859, and executed after the extension.

Second.—The assignment of May 18th, 1853, by Stanley to Henry J. Ruggles, conveyed the whole interest of the patentee, as well in the extended term as in that unexpired, and for a large consideration—more than eight years of the patent having then expired.

See assignment, above.

1. The words, "to the full end of the term for which said letters patent *are or may be granted*," are only applicable to a design to convey both a present and future interest.

2. The Commissioner was authorized to grant extensions for seven years, and the extended patent had the "same force and effect as though originally granted for the *term of twenty-one years*."

Act of 1836, § 18.

3. In no way but by an extension, can the *term* be affected. A re-issue does not affect *the term*. An amendment does not operate upon it.

No suggestion is or can be made of any mode in which the words "may be granted" can be satisfied and given effect, except by allowing them to relate to the renewed term.

Act of 1836, § 13.

4. The only limitation of time is contained in the words "to the full end of the term," &c., and makes a grant co-extensive with the grantor's present and possible estate.

5. It is only by wresting the language of this conveyance from its obvious signification, and treating the grantor as incapable of an intelligent exercise of the most ordinary powers, that any other construction of the assignment can be sustained.

Third.—The construction contended for has repeatedly been given to this language.

1. In Phelps *vs.* Comstock, 4 McLean, 354–5, Judge McLean, held that the words "to the full end of the term or terms for which letters patent are or may be granted for said improvements as fully and entirely as

the same would have been enjoyed by me had this assignment not been made," conveyed an interest in the extended term.

2. In Case *v.* Redfield, 4 McLean, 528–9, Judge Huntington decided "That a grant of all the right, title and interest which said heirs had in said invention and improvement as secured to them by said letters patent for the whole United States, with certain exceptions, and for the use and behoof of his (Zebulon Parker's) representatives for which letters patent were, or *may be granted* for said improvements, as fully and entirely as the same would have been held and enjoyed by said heirs had that assignment not been made," gave a right to the extension.

3. In Nesmith *v.* Calvert, 1 Woodbury & M., 34, Judge Woodbury held that a grant of "all improvements in machines for burring wool, and all my right to any letters patent which may be obtained for the same," would extend to a second as well as a first patent.

4. Judge Curtis, in Clum *v.* Brewer, 2 Curtis, 507, &c., decided that Morse, who had filed a caveat and then conveyed "one fourth of my invention and of all my right and property therein, secured by my caveat or otherwise, that I have *or may have* from any letters patent for the same, granted by the Government of the U. S," granted thereby an interest in the extension of his patent.

5. Judge Story, in Woodworth *v.* Sherman, 3 Story, 174, &c., and Mitchell *v.* Winslow, 2 *id.* 639, held that when the grant by express words or just implication, gives an interest in the renewed patent, the assignee will be protected.

6. The Court in Wilson *v.* Rousseau, 4 Howard, 685, limited the operation of the covenant, then under consideration, to the existing term, because there was no

law authorizing an extension. And the decisions quoted, except those of Judge Story, were made after Wilson *v.* Rousseau.

Fourth.—There are no reported cases in conflict with those above cited. In this cause however it was held by the Court below that the complainants had made out a title, and a preliminary injunction was granted, but the bill was dismissed at the hearing, on a point not urged by the defendants.

Fifth.—The appellees seek an affirmance of the decree below, on the ground of a want of title in the complainants to the extended patent. To place a decision upon any other ground would be to give effect to a technical objection, not raised by the defendants, and leave out of view the only question affecting the merits of the case.

H. M. Ruggles,
Of Counsel for Appellees.

SUPREME COURT

OF THE

UNITED STATES.

CHARLES EDDY AND JACOB SHAVOR, APPELLANTS,
ag'st
JOHN N. BILLINGS AND FREDERICK R. STOW, RESPONDENTS.

STATEMENT OF FACTS.

On the 30th day of July, 1860, the above-named appellants filed their Bill of Complaint in the Circuit Court of the United States, for the Northern District of New York, in Equity, against the above-named respondents, in an action for the infringement, by the respondents, of Letters Patent, held and owned by the said appellants, and praying for an injunction and an accounting in the usual manner.

The said respondents filed their Answer to the said Bill of Complaint, and a preliminary injunction was granted by the Circuit Court. After the

granting of said injunction, and before the final hearing, the said appellants duly surrendered the said Letters Patent in accordance with the laws of the United States, and obtained a re-issue of the same, which re-issue bears date on the 13th day of November, 1860.

Shortly after said last mentioned re-issue, and on the 15th day of January, 1861, the said appellants filed their supplemental complaint, in which they set forth the proceedings that had already taken place in the said action, and the surrender and re-issue of the said Letters Patent, and alleged that the defendants had infringed said Letters Patent since the said re-issue, and threatened and were about to continue such infringement; and said supplemental complaint concluded by praying the usual injunction and accounting.

Testimony was then taken in the case on both sides, and the same duly brought to final hearing before the Circuit Court. Upon that hearing the Circuit Court dismissed the Bill of Complaint, upon the ground that, by the surrender and re-issue of Letters Patent during the pendency of the action, the plaintiffs had extinguished their right of action, and the suit was thereby abated.

From this decision the plaintiffs have appealed to this Court.

Points for the Appellants

We contend that the learned Judge erred in ordering the dismissal of the Bill upon the following grounds:

I.

We insist that a suit in Equity, for the infringement of a Patent, does not necessarily fall by the re-issue of that Patent pending the suit. As no opinion was delivered in the Court below, save the simple statement that the surrender and re-issue of the Patent since the commencement of the suit was fatal, and that the point had been several times decided, we are ignorant of the exact grounds upon which Judge Nelson based his judgment, and of the decisions to which he referred.

But we suppose that he relied upon several reported cases, holding that *in an action at law*, the surrender and re-issue of the Patent, on which it is brought, is a fatal objection to the continuance of the action.

Moffitt v. Garr, 1 Black, 273.

II.

The sole question presented on this appeal is whether or not the above rule, which is admitted to apply to actions at law, is also applicable to suits in equity. We are not aware that there has been any express decision of this Court upon this particular point, while in the different Circuits the decisions have been conflicting. What, then, is the effect of a surrender and re-issue of Letters Patent? It is an admission that the specification of the surrendered Patent is *inoperative* in some respect, and that it requires amendment, but it is by no means an admission that the former Patent

was void. On the contrary, nothing is more common than to surrender and re-issue a Patent that has been fully sustained by the Courts. And if, for any cause, the re-issued Patent is void, the original Patent is revived, and actions may be brought upon it as though no surrender had taken place—showing, clearly, that the offer to surrender is no evidence of the invalidity of the original Patent.

Woodworth v. Edwards, 3 Wood. & Min., 127.

III.

The effect, then, of a surrender and re-issue is to cancel and extinguish a Patent otherwise valid, and to substitute in its place a new and amended instrument, which operates, except as to infringements before the re issue, from the commencement of the original term. It moreover secures and *must* secure precisely the same invention described in the original Patent: And the reason why the patentee cannot sustain an action for infringements committed before the re-issue is, not that a trespass has not been committed, not that he has not sustained legal damages, but because he cannot sue on the new Patent, which has not been infringed, nor upon the old Patent, which is no longer in existence. And this is the evident foundation of the rule that the owner of a re-issued Patent cannot maintain an action for infringements committed before the surrender.

IV.

From the general principle above stated, naturally proceeds the doctrine, that if a Patent is surrendered, pending *an action at law*, brought upon it, the action also falls to the ground.

This is a necessary result by reason of the rigid and undeviating forms of common law actions. In an action at law the plaintiff can recover nothing but *damages*, and having, by his surrender, relinquished his right to damages, there is nothing which can support the action—no relief which the Court can give him.

The fact that the re-issued Patent may have been infringed cannot help him; the inflexible rule of law is, that no damages can be recovered except such as have accrued before the commencement of the action. Besides, there is no proceeding, analagous to the supplemental bill in Equity, by which the re-issue and subsequent infringement, if any, may be brought to the notice of the Court.

V.

But there seems to be no necessity of applying this rule to a suit in Equity. It has always been the boast of that Court, that its flexible and yielding forms are so adapted, as to do substantial justice to the parties, according to the circumstances of the particular case.

We concede that the complainants in this case, by their surrender, have forfeited all claims for damages for the infringement of their original

Patent, but the defendants have infringed the re-issued Patent, and it is the constant practice of Courts of Equity to take an account of profits down to the moment of accounting.

Suppose that the complainants have lost all right to damages, it does not follow that they are not entitled to relief by injunction. And in this case the facts of the surrender, the re-issue and the subsequent infringement, are all set forth in the supplemental bill. It would seem that the complainants ought not to lose the benefit of the evidence already taken in the suit, so far as it furnishes a foundation for the relief to which they are still entitled. The *invention* described in both Patents is the same, the evidence as to similarity, novelty, &c., just as material after the re-issue as before, and we think the Court would hardly be justified, in refusing the complainants the small measure of relief, which it can still afford notwithstanding the surrender.

There seems to be no good reason why the Court should not hold, in furtherance of justice, that, although the original Patent is extinguished, the suit may still be sustained by a cause of action substantially the same, arising under the re-issued Patent, and set forth in the supplemental bill.

VI.

This is a stronger case for a continuance of the suit than the case of Woodworth v. Stone, decided by Judge Story, and reported in 3 Story, 749. In the last mentioned case, as in the one before the

Court, there was a surrender and re-issue pending the suit, and a supplemental bill filed for the continuance of the injunction granted upon the original bill, but there was no allegation in the supplemental complaint of any *new infringement* since the re-issue.

The defendants do not appear to have even claimed that the surrender put an end to the suit, nor did they move to dismiss it, but they moved to dissolve the injunction, upon the sole ground, that the infringement, assigned in the original bill, could have no application to the new Patent, and it was not claimed that there was any breach of the new Patent. Judge Story, while admitting fully the doctrine at law, decided that the suit could be maintained for an injunction, without any allegation of a new breach, as upon a bill *quia timet*. It seems to have been taken for granted, by all parties, that if the supplemental bill had contained charges of an infringement *since the re-issue*, there would have been no question as to the right to continue the injunction upon the supplemental bill.

VII.

We are not aware that the doctrine laid down in Woodworth v. Stone, has ever been overruled by this Court, and it seems founded upon sound reason, and the uniform practice of Courts of Equity. But in our case the objection made in Woodworth v. Stone, does not exist. In our supplemental bill we do allege not only that we ap-

prehend an infringement of the new Patent, but that the defendants *have actually infringed* since the re-issue, and we went to the final hearing with evidence sustaining this allegation. So far as our remedy consisted in the recovery of profits made before the surrender, we admit that it is lost; so far as it is *preventive*, we can see no reason why we are not entitled to relief, upon the facts set forth in our supplemental bill. And it is also reasonable, that we should have an account of the profits made by the defendants, from the use of our Patent *since the re-issue.*

VIII.

The statute in relation to re-issues, certainly, does not expressly provide that a re-issue shall have the effect claimed by the defendants in this suit, and why should this Court establish such a doctrine? Is not the rule harsh enough, that compels the patentee to forfeit all damages for past infringements, as the result of his accident or inadvertence? We cannot better illustrate the injustice of this rule towards suitors, than by stating the facts in this very case. The assignor of the complainants had made and patented several valuable improvements in coal-burning stoves. The claim, as often happens when the specification is not drawn by a lawyer, united all the improvements in a single combination. After a preliminary injunction had been granted in this suit, and after considerable testimony had been taken, and much expense incurred, the defendants

altered their stoves by leaving out one element of the combination, but continued to use substantially the complainants' invention. As is usually the case in Patent causes, the injunction was of far more importance to the complainants than a judgment for damages, and relying on the case of *Woodworth v. Stone*, they re-issued the Patent by simply dividing the claim into lesser combinations, filed a supplemental bill by leave of the Court, and obtained an order continuing the injunction. It would certainly appear that this was simply doing justice between the parties, giving the complainants their rights, and depriving the defendants of none.

But under the rule now sought to be established, the complainants had but one of two alternatives: either to discontinue their suit, pay the costs, lose the benefit of the evidence taken, and expenses incurred; or, on the other hand, to allow the defendants to continue their infringements, so long as they could, by any possibility, postpone the judgment in the pending action. In many cases this would be a practical denial of justice. We think no rule, which involves such consequences to suitors, should be lightly adopted; that the decision of Judge Story is reasonable and should be followed, and we trust that this Court, by reversing the decision of the Circuit Court in this case, will establish the practice in accordance with justice and equity.

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